

2 August 2002

Law of 2 August 2002 on the supervision of the financial sector and on financial services

(Belgisch Staatsblad/Moniteur belge [Belgian Official Gazette], 4 September 2002)

(Unofficial consolidation)

Last amended by: Law of 31 July 2013 (Belgian Official Gazette 30 August 2013)

Disclaimer

This text is an unofficial translation and may not be used as a basis for solving any dispute

This unofficial consolidated text of the law is a purely formal consolidation. As a consequence, no attempt has been made to rectify references to legislation that has meanwhile been abrogated.

In accordance with Article 331, first paragraph, of the Royal Decree of 3 March 2011 (Belgian Official Gazette 9 March 2011), the words 'Banking, Finance and Insurance Commission' and the word 'CBFA' shall be replaced by the words 'Financial Services and Markets Authority' and the word 'FSMA' respectively.

CHAPTER I

General provisions

Article 1

This Law regulates a matter referred to in Article 78 of the Constitution.

Article 2

For the purposes of this Law, the following definitions shall apply:

[1° 'financial instrument': any instrument belonging to one of the following categories:

a) securities, as defined in 31°;

- b) money market instruments, as defined in 32°;
- c) units in undertakings for collective investment;
- d) options, futures, swaps, forward rate agreements and any other derivative contracts that relate to securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measurements, and that may be settled physically or in cash;
- e) options, futures, swaps, forward rate agreements and any other derivative contracts that relate to commodities and that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event);
- f) options, futures, swaps, and any other derivative contracts that relate to commodities that can be physically settled, provided that they are traded on a regulated market and/or an MTF;
- g) options, futures, swaps, forward rate agreements and any other derivative contracts that relate to commodities that can be physically settled and that are not otherwise mentioned in f) and are not intended for commercial purposes, which have the characteristics of other derivatives, with particular regard to whether they are cleared and settled through recognized clearing houses or are subject to regular margin calls;
- h) derivative instruments for the transfer of credit risk;
- i) financial contracts for differences;
- j) options, futures, swaps, forward rate agreements and any other derivative contracts relating to climate variables, freight rates, emission allowances, inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise than by reason of a default or other termination event), as well as any other derivative contracts relating to assets, rights, obligations, indices and measurements not otherwise mentioned in 1° which have the characteristics of other derivatives, with particular regard to whether they are traded on a regulated market or an MTF, are cleared and settled through recognized clearing houses or are subject to regular margin calls;]

1° a) to j) replaced by Article 2, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

- k) other securities or rights designated by the King [upon the recommendation of the FSMA and the National Bank of Belgium], where applicable for the application of the provisions He indicates;

1° k) amended by Article 199, a) of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[2° 'accepted market practices': practices that may reasonably be expected and accepted by the FSMA on a Belgian regulated market or a market or trading system as referred to in Article 15 or, where a market in another Member State of the European Economic Area is concerned, by the competent authority of that State;]

2° replaced by Article 2, 1° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

3° 'regulated market': any Belgian or foreign regulated market;

[4° 'Multilateral trading facility (MTF)': a multilateral system, operated by an investment firm, a credit institution, or a market operator, which brings together multiple third-party buying and selling interests in financial instruments - in the system and in accordance with non-discretionary rules - in a way that results in a contract in accordance with the provisions of Chapter II of this Law or Title II of Directive 2004/39/EC;]

4° replaced by Article 2, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[5° 'Belgian regulated market': a multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments - in the system and in accordance with its non-discretionary rules - in a way that results in a contract in respect of the financial instruments admitted to trading under its rules and/or systems, and which is authorized and functions regularly, in accordance with the provisions of Chapter II;]

5° replaced by Article 2, 3° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[6° 'foreign regulated market': any market for financial instruments that is organized by a market operator whose country of origin is a Member State of the European Economic Area other than Belgium and which has obtained authorization in that State as a regulated market in accordance with Title III of Directive 2004/39/EC;]

6° replaced by Article 2, 4° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[7° 'market operator': a person or persons who manage and/or operate a regulated market; the market operator can be the regulated market itself;]

7° replaced by Article 2, 5° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[8° 'systematic internalizer': an investment firm or credit institution which, on an organized, frequent and systematic basis, executes client orders on its own account outside a regulated market or an MTF;]

8° replaced by Article 2, 6° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

9° 'financial intermediary': any person whose ordinary activity involves the professional provision of investment services;

10° 'qualified intermediary': any financial intermediary belonging to one of the following categories:

a) credit institutions governed by Belgian law that are included on the list referred to in Article 13 of the Law of 22 March 1993 on the legal status and supervision of credit institutions;

b) credit institutions whose home Member State is another Member State of the European Economic Area and that are authorized to provide investment services in Belgium pursuant to Article 65 or 66 of the aforementioned Law;

c) credit institutions whose home Member State is a third country and that are authorized to provide investment services in Belgium pursuant to Article 79 of the aforementioned Law;

[d) investment firms governed by Belgian law that hold an authorization as a stockbroking firm or a portfolio management and investment advice company;]

d) replaced by Article 2, 7° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

e) investment firms whose home Member State is another Member State of the European Economic Area and that are authorized to provide investment services in Belgium pursuant to Article 110 of the aforementioned Law, including natural persons whose home Member State permits the provision of investment services by natural persons;

f) investment firms whose home Member State is a third country and that are authorized to provide investment services in Belgium pursuant to Article 111 of the aforementioned Law;

[g]

10° g) abrogated by Article 2, 8° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

h) the European Central Bank, the [Bank] and the central banks of the other Member States of the European Economic Area, without prejudice to the application of Article 108 of the Treaty establishing the European Community;

10° h) amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

i) other financial intermediaries that the King may indicate upon the recommendation of the FSMA, where applicable for the application of the provisions He indicates;

[11° 'home Member State':

a) in the case of an investment firm:

i) if the investment firm is a natural person, the Member State in which this person's head office is situated;

ii) if the investment firm is a legal person, the Member State in which its registered office is situated;

iii) if the investment firm has, under its national law, no registered office, the Member State in which its head office is situated;

b) in the case of a regulated market: the Member State in which its registered office is situated or, if under the law of that Member State it has no registered office, the Member State in which the head office of the regulated market is situated;]

11° replaced by Article 2, 9° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

12° 'third country': any country that does not belong to the European Economic Area;

[13° 'host Member State': the Member State, other than the home Member State, in which an investment firm has a branch or performs services and/or activities or the Member State in which a regulated market provides appropriate arrangements so as to facilitate remote access to trading on its system by members or participants established in that same Member State;]

13° replaced by Article 2, 10° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[14° 'inside information': any information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers of financial instruments or to one or more financial instruments and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivatives.

In relation to commodity derivatives, 'inside information' shall also be understood to mean any information of a precise nature which has not been made public, relating, directly or indirectly, to one or more such derivatives and which users of markets on which such derivatives are traded would expect to receive in accordance with accepted market practices on those markets. Such users are considered to be able to expect that they will receive information relating, directly or indirectly, to one or more such derivatives, where the information is:

a) routinely made available to the users of those markets; or

b) required to be disclosed in accordance with legal or regulatory provisions, market rules, contracts or customs on the relevant underlying commodity market or commodity derivatives market.

For persons charged with the execution of orders relating to financial instruments, 'inside information' shall also mean any information of a precise nature, transmitted by a client and related to the client's current orders, which directly or indirectly relates to one or more issuers of financial instruments or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivatives.

Information shall be considered as potentially significantly affecting the price of financial instruments or related derivatives if a reasonable investor would be likely to take into account this particular piece of information as part of the investment decision-making process.

The information referred to in the first three paragraphs shall be deemed to be of a precise nature if it indicates existing circumstances or circumstances that may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of those circumstances or event on the prices of financial instruments or related derivatives.]

14° replaced by Article 2, 2° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[15° 'Limit order': an order to buy or sell a specified quantity of financial instruments at a specified - or more advantageous - price;]

15° replaced by Article 2, 11° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

16° 'clearing institution': an institution that performs netting by novation or offsets mutual obligations resulting from transactions on financial instruments or forward exchange transactions;

17° 'settlement institution': an institution that performs the settlement of orders to transfer financial instruments, of rights in respect of those financial instruments, or of forward exchange transactions, whether or not settlement is in cash;

18° 'open consultation': the procedure whereby the content of a Decree or of a regulation that the King, the Minister [or the FSMA] is considering promulgating is elucidated by the authority concerned in a consultative document published on the Internet site of the Ministry of Finance [or of the FSMA], where applicable, with the parties concerned being invited to give their comments, if any, within the term specified in that document;

18° amended by Article 2, 1° of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

19° 'Minister': unless otherwise indicated, the Minister of Finance [...];

19° amended by Article 2, 2° of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

20° '[Bank]': the National Bank of Belgium;

20° amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[20°bis 'the Bank of Belgium's Organic Act': the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium;

20bis inserted by Article 199, b) of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

21° 'FSMA': in English the 'Financial Services and Markets Authority'; in German 'Autorität Finanzielle Dienste und Märkte', in French 'l'Autorité des services et marchés financiers' and in Dutch, 'Autoriteit voor Financiële Diensten en Markten'.

21° replaced by Article 12, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[22° 'person discharging managerial responsibility at an issuer': a person who:

a) is a member of the governing, managerial or supervisory bodies of an issuer of financial instruments;

b) a senior manager who, without being a member of the bodies referred to in a), regularly has access to inside information that directly or indirectly refers to the issuer, and also has the authority to make management decisions that have an impact on the future development and business strategy of that issuer;

23° 'person closely connected with a person discharging managerial responsibility at an issuer of financial instruments':

a) the spouse, or domestic partner linked by a partnership considered by law to be equivalent to a marriage, of the person discharging managerial responsibility;

b) children who legally fall under the care of the person discharging managerial responsibility;

c) other members of the family of the person discharging managerial responsibility who, on the date of the transaction in question, have formed part of the same household as the person in question for at least one year;

d) a legal person, fiduciary or other trust, or partnership, the managerial responsibility of which is entrusted to a person referred to in point 22° of this Article or under a), b), and c) of this point, who directly or indirectly falls under the control of such a person, that is established for the benefit of such a person, or whose economic interests are substantially equivalent to those of such a person;

24° 'recommendation': research or other information in which an investment strategy is explicitly or implicitly recommended or suggested, relating to one or more financial instruments or issuers of financial instruments, including advice on the current or future value or price of such instruments intended for distribution channels or the public;

25° 'research or other information in which an investment strategy is explicitly or implicitly recommended or suggested':

a) information provided by an independent analyst, an investment firm, a credit institution, another person whose core activity consists in making recommendations, or a natural person working for these whether or not under employment contract, in which a specific investment recommendation is made directly or indirectly that relates to a financial instrument or an issuer of financial instruments;

b) information provided by other persons than those referred to under a) in which a specific investment decision is directly recommended in relation to a financial instrument;

26° 'distribution channels': channels through which information is or can become public; 'information that can become public': information to which a number of persons have access;]

22° to 26° inserted by Article 2, 3° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[27° 'client': all natural or legal persons to whom an investment firm or a credit institution provides investment and/or ancillary services [as well as any natural or legal person who uses other financial services or financial products referred to in the provision concerned];

27° supplemented by Article 12, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

28° 'professional client': a client who satisfies the criteria defined by the King [upon the recommendation of the FSMA and the Bank];

28° amended by Article 199, c) of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

29° 'non-professional client': a client who is not treated as a professional client;

30° 'an eligible counterparty': persons determined by the King upon the recommendation of the FSMA;

31° 'securities': all categories of financial instruments (with the exception of payment instruments) that are negotiable on the capital market, such as:

a) shares in companies and other securities equivalent to shares in companies, partnerships or other entities as well as share certificates;

b) bonds and other debt securities, as well as certificates of such securities;

c) all other securities conferring the right to acquire or sell such securities or that give rise to a cash settlement, the amount for which is determined based on securities, currencies, interest rates or yields, commodities prices or other indices or measurements;

32° 'money market instruments': all categories of instruments (except payment instruments) that are ordinarily traded on the money market, such as treasury certificates, certificates of deposit and commercial paper;

33° 'competent authority': the FSMA or the authority that each Member State designates pursuant to Art. 48 of Directive 2004/39/EC, unless otherwise specified in the Directive;

34° 'credit institution': all institutions referred to in Titles II to IV of the Law of 22 March 1993 on the legal status and supervision of credit institutions;

35° 'management companies of UCITS': management companies within the meaning of [Part III of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios];

35° amended by Article 226, § 1, of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012

36° '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 abrogating Council Directive 93/22/EEC;

37° 'Regulation 1287/2006': Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and the definition of terms for the purposes of that Directive;

38° 'Directive 2006/73/EC': Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organizational requirements and operating conditions for investment firms and the definition of terms for the purposes of that Directive;]

27° to 38° inserted by Article 3 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[39° ['financial products': savings, investment or insurance products;]

39° inserted by Article 2 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and abrogated by Article 199, d) of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011 and restored by Article 12, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[40° 'financial services': services associated with one or more financial products;]

40° inserted by Article 2 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and abrogated by Article 199, d) of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011 and restored by Article 12, 4° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[41° 'the Law of 22 March 1993': the Law of 22 March 1993 on the legal status and supervision of credit institutions.]

41° inserted by Article 2 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

[42° 'savings account': an account in which money deposits are received by credit institutions as referred to in Article 68bis, first paragraph, 1° of the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets, excluding payment accounts within the meaning of Article 2, 8° of the Law of 10 December 2009 on payment services;

43° 'ESMA': the European Securities and Markets Authority as established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010;

44° 'EBA': the European Banking Authority as established by Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010;

45° 'EIOPA': the European Insurance and Occupational Pensions Authority as established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010.]

42° to 45° inserted by Article 12, 5° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[For the purposes of this Law, the following terms shall be understood to have the same meaning as in the Law of 6 April 1995 on the legal status and supervision of investment firms:

1° investment firm;

2° investment services and activities;

3° ancillary services;

4° investment advice;

5° executing orders on behalf of clients;

6° trading for own account;

7° market maker;

8° portfolio management;

9° tied agent;

10° branch;

11° qualified shareholding;

12° parent company;

13° subsidiary;

14° supervision

15° close connections.]

2nd paragraph inserted by Article 4 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

CHAPTER II

[Markets and transactions in financial instruments [and rules of conduct]]

*Title replaced by Article 5 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007
and supplemented by Article 200 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March
2011*

Section 1

Regulated markets

Article 3

[§ 1. Upon the recommendation of the FSMA, the Minister shall provide an authorization as a Belgian regulated market to the Belgian market operator for the markets that correspond with the provisions in this section.

The market operator of the Belgian regulated market shall provide all information - including a programme of operations in which the nature of the activities planned and the organizational structure are detailed - required by the FSMA to ascertain whether the market operator for the regulated market has met all the requirements at the time of the initial granting of authorization that are necessary to be able to comply with all of its obligations as a regulated market under the provisions of this section.

[The list of Belgian regulated markets that are authorized in application of the first paragraph, as well as any amendment to that list, shall be published in the Moniteur belge/Belgisch Staatsblad (Belgian Official Gazette) by the Minister. The Minister shall communicate this list to ESMA, to the other Member States and to the European Commission. Any amendment shall be communicated in the same manner. The list shall be published on the FSMA website.]

*§ 1, 3rd paragraph replaced by Article 13, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30
August 2013*

§ 2. The market operator of the Belgian regulated market shall fulfil the tasks related to the organization and operation of a regulated market, under the supervision of the FSMA.

The FSMA ensures that the Belgian regulated market complies with the provisions of this section.

The FSMA oversees the compliance at all times by the Belgian regulated markets with the terms of the initial granting of the authorization as established in this section.

§ 3. Upon the recommendation of the FSMA, the Minister may withdraw the authorization of a Belgian regulated market, either at the request of the market operator organizing the market in question, or of his own accord where that market:

a) has not used the authorization for a period of twelve months, explicitly indicates that it will not make use of the authorization, or has not operated for the previous six months;

- b) has obtained the authorization through making false declarations, or in any other irregular manner;
- c) no longer complies with the terms under which the authorization was granted;
- d) has seriously and systematically infringed the provisions of this section.

In the cases referred to in the first paragraph, the market operator organizing the market in question shall take all appropriate measures to ensure an orderly transition that respects the interests of the investors. To this end, it shall draw up a transition plan and submit this to the FSMA for prior approval. Should the market operator fail to draw up such a transition plan, the FSMA may officially impose one. The operator shall remain subject to the FSMA's supervision until all the measures have been implemented.

[ESMA shall be notified of any withdrawal of authorization.]

§ 3, 3rd paragraph, inserted by Article 13, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 4. Unless the Minister resolves otherwise with regard to the decision to authorize the market as a regulated market, or makes a subsequent Decree to the contrary, the admission of financial instruments to trading on a Belgian regulated market shall qualify as admission to official listing for the application of the statutory or regulatory provisions that refer to that listing. Where the Minister resolves otherwise, his decision shall be recorded in the list published in accordance with the third paragraph of § 1.

§ 5. Without prejudice to any applicable provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), trading that takes place on a Belgian regulated market is governed by Belgian law.]

Article replaced by Article 6 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 4

To ensure that a market for financial instruments can secure and retain recognition as a Belgian regulated market, the market operator organizing it shall:

- 1° guarantee the regular operation of trading on the market;
- 2° establish market rules in accordance with Article 5, ensure that the members of the market are contractually bound by them, supervise compliance with them, and take action against their infringement;
- 3° possess adequate computer systems to ensure the efficient operation of the market, to enable compliance with the transparency obligations referred to in Article 9, and to facilitate the detection of market abuse;

4° ensure the transparency of the transactions in financial instruments admitted to trading on the market, in accordance with Article 9;

5° with a view to the clearing and settlement of transactions in financial instruments, make use of clearing and settlement systems that offer sufficient guarantees for the protection of the interests of participants and investors, and for the proper functioning of the market, [and put in place adequate mechanisms for an efficient and timely settlement of the transactions made via its systems;]

5° amended by Article 7 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

6° provide for the appropriate structural measures and emergency plans for coping with disruptions in the functioning of the market.

Article 5

§ 1. The market rules of a Belgian regulated market must determine:

1° the conditions and procedures for the admission, suspension and exclusion of members of the market, with due regard to Article 6 and the provisions laid down in application of that Article;

2° the obligations and prohibitions applicable to the members of the market;

3° the conditions and procedures for the admission of financial instruments to trading on the market, as well as the conditions and procedures for the suspension and delisting of those instruments, with due regard to Article 7 and the provisions laid down in application of that Article;

4° the obligations that arise for issuers from the admission of their financial instruments to trading on the market;

[5° transparent and non-discretionary rules and procedures that guarantee fair and orderly trading, as well as objective criteria for the efficient execution of orders;]

§ 1, 5° replaced by Article 8, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

6° the rules and procedures for the [...] publication of transactions, with due regard to the provisions laid down in application of Article 9;

§ 1, 6° amended by Article 8, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

7° the rules and procedures regarding the supervision of compliance with the market rules, as well as the sanctions and procedures in force in the event of infringement of those rules;

§ 2. The market rules shall not contain provisions whose purpose or result is to restrict competition between market members or between the market and other organized markets for financial instruments.

[§ 3. The market rules and any amendments to them must be given prior approval by the FSMA as part of its supervision as specified in Article 3.

The market operator shall be responsible for the publication and updating of the market rules, both on its website and in printed form. The FSMA's approval of the rules and of any subsequent amendments shall be published on its website.]

§ 3, 1st and 2nd paragraphs replaced by Article 8, 3° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Should the market operator fail to adapt the market rules to the amendments to the statutory and regulatory provisions in force, the Minister may, upon the recommendation of the FSMA, make the necessary adaptations to the market rules and publish them.

§ 4. The FSMA shall verify whether the instructions and circulars issued in implementation of the market rules are in accordance with those rules and with the statutory and regulatory provisions in force. The Minister may, in application of § 3, first paragraph, make his approval of market rules or of amendments to them dependent on the condition that the instructions or circulars in implementation of the provisions of the market rules that he shall indicate, as well as all amendments to those instructions or circulars, have been previously submitted to the FSMA for such a verification.

Article 6

[§ 1. The market rules of Belgian regulated markets shall consist of objective, transparent and non-discriminatory rules that govern access to, or membership of, the regulated market in question.

§ 2. These rules shall specify all the obligations of the members and participants pursuant to:

- a) the establishment and management of the regulated market;
- b) the rules regarding market transactions;
- c) the professional standards that apply to the staff of investment firms or credit institutions operating on the market;
- d) the conditions laid down in § 3 for members or participants that are not investment firms or credit institutions;
- e) the rules and procedures for the clearing and settlement of transactions that are carried out on the regulated market.

§ 3. The Belgian regulated markets can admit, as members or participants, investment firms and credit institutions authorized under Directive 2000/12/EC and other persons who:

- a) are fit and proper;
- b) are sufficiently able and competent for trading;
- c) where applicable, have met the necessary organizational requirements;
- d) are in possession of sufficient resources for the role that they must fulfil, taking into account the different financial regulations that the regulated market may have established in order to ensure the proper settlement of transactions.

§ 4. Investment firms and credit institutions from other Member States which have received authorization to execute orders on behalf of clients or to trade on their own account, have the right to become a member or to gain access to the regulated markets established in Belgium with no additional formalities relating to the matters regulated by Directive 2004/39/EC by way of one of the following arrangements:

- a) directly, by establishing a branch in Belgium;
- b) by becoming a remote member or receiving remote access to the regulated market without the necessity of being established in Belgium, as long as the procedures and systems for trading on the market in question do not require a physical presence for concluding transactions on this market.

The rules for access to, or membership of, a Belgian regulated market must provide for direct or remote participation by investment firms and credit institutions.

§ 5. The Belgian regulated markets shall communicate to the FSMA the name of the Member State in which they intend to make the necessary provisions to enable users and participants established within it to gain remote access to, and trade on these markets.

The FSMA shall communicate this information within one month to the Member State in which the regulated market intends to provide such arrangements.

§ 6. The market operator of the Belgian regulated markets shall periodically communicate the list of their members and participants to the FSMA.

The FSMA shall, on request from the competent authority of the host Member State of a Belgian regulated market, communicate the names of the established members or participants of the regulated market to this authority within a reasonable period of time.

§ 7. The Belgian regulated markets shall have effective regulations and procedures in place to enable regular supervision of the observance of their rules by their members and participants.

Regulated markets shall monitor the transactions carried out by their members or participants with respect to their systems in order to identify infringements of those rules, trading conditions that interfere with the orderly functioning of the market, or conduct that may involve market abuse.

The FSMA may determine additional rules relating to the obligations provided for in the first and second paragraphs.

§ 8. The market operators of Belgian regulated markets shall communicate any infringements of their rules or trading conditions that significantly interfere with the orderly functioning of the market, or conduct that may involve market abuse, to the FSMA.

The market operators of the regulated market shall provide the applicable information immediately to the FSMA and provide their full cooperation in the investigation of, and prosecution for, incidences of market abuse that have occurred on or through the systems of the regulated market.

The King may establish specific rules relating to the obligations of the market operators of regulated markets provided for in the first and second paragraphs where these concern transactions on regulated markets relating to linear bonds, treasury certificates, and split securities.

§ 9. Regulated markets from other Member States are authorized to give remote access to their markets in Belgium to established members or participants via facilities established in Belgium or otherwise.

If the FSMA, as the competent authority of the host Member State, has clear and demonstrable reasons to believe that this regulated market does not comply with the obligations that arise from the implementation of the provisions of Directive 2004/39/EC, it shall inform the competent authority of the regulated market's home Member State.

If, despite the measures adopted by the competent authority of the home Member State, or because such measures prove inadequate, the regulated market persists in trading in a manner that is clearly prejudicial to the interests of investors in Belgium, or to the orderly functioning of markets, the FSMA shall, after informing the competent authority of the home Member State, take all appropriate measures required in order to protect investors and preserve the proper functioning of the markets. This includes the option of preventing the regulated market from making its facilities available remotely to members or participants in Belgium. The European Commission shall be informed of these measures forthwith. Articles 41 to 43 apply to those who do not comply with the aforementioned order.

Article replaced by Article 9 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Art. 6bis

§ 1. Belgian regulated markets must establish clear and transparent rules relating to the admission of financial instruments to trading.

These rules shall ensure that all financial instruments admitted to trading on a Belgian regulated market can be traded in a fair, orderly, and efficient manner and that, in the case of securities, they are freely negotiable.

§ 2. In the case of derivatives, the rules shall ensure in particular that the design of the derivative contract allows for its orderly pricing as well as for the existence of effective settlement conditions.

§ 3. In addition to the obligations laid down in § 1 and § 2, the Belgian regulated market must put in place and maintain adequate mechanisms to verify whether issuers of securities that are admitted to trading on the regulated market comply with the requirements arising from the Community legislation regarding the initial, continuous, or occasional provision of information.

The Belgian regulated markets shall provide mechanisms that facilitate the access by their members and participants to information that is made public pursuant to the Community legislation.

§ 4. The Belgian regulated markets shall put adequate mechanisms in place for regularly overseeing the compliance of the financial instruments they have admitted to trading with the terms for this admission.]

Article inserted by Article 10 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 7

§ 1. Upon the recommendation of the FSMA, and after consultation with the market operators referred to in Article 16, the King may determine the minimum conditions for admission to trading of the various categories of financial instrument on Belgian regulated markets.

He may permit market operators to derogate from the admission conditions that He indicates, insofar as such derogation applies to all issuers that find themselves in similar circumstances.

§ 2. Without prejudice to the competence of the FSMA to approve the admission prospectus pursuant to [the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets], the admission of financial instruments to trading on a Belgian regulated market shall be decided upon by the market operator organizing that market. In cases where Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities applies, the market operator shall be the competent authority referred to in Article 11, § 1, of that same Directive. For the purpose of protecting the interests of investors, the FSMA may oppose the admission of a financial instrument.

§ 2, 1st paragraph amended by Article 32 of the Law of 22 April 2003 - Belgian Official Gazette 27 May 2003 and by Article 77 of the Law of 16 June 2006 – Belgian Official Gazette 21 June 2006

[A security that has been admitted to trading on a regulated market can subsequently be admitted to trading on another Belgian regulated market, even without the consent of the issuer,

provided that the relevant provisions of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, and amending Directive 2001/34/EC, are complied with. The issuer shall be informed by the relevant Belgian regulated market of the fact that the security in question is being traded on that regulated market. Securities not yet admitted to trading on a regulated market may be admitted to trading on a Belgian regulated market only at the request of the issuer or after its advice concerning admission has been sought. The issuer shall not be obliged to provide the information required under Article 6bis § 3, directly to any regulated market that has admitted the issuer's securities to trading without the latter's consent.]

§ 2, 2nd paragraph replaced by Article 11, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

The market operator may make the admission of a financial instrument to trading dependent on any specific condition which it deems appropriate for the protection of the interests of investors, and of which, where relevant, it has given prior notification to the issuer of that instrument or to the person requesting the admission.

§ 3. The market operator may, on its own initiative or at the request of the issuer, suspend trading in a financial instrument that has been admitted to trading on a Belgian regulated market that it organizes, should the proper functioning of the market for that instrument be temporarily at risk of not being guaranteed, or in order to permit the publication of information concerning that instrument under suitable conditions. [The operator of the regulated market may suspend trading in a financial instrument which no longer complies with the rules of the regulated market, unless such a measure is likely to significantly prejudice the interests of investors or the proper functioning of the market.] The market operator must do this if the FSMA, after discussion with the operator, so requests in the interest of protecting investors.

§ 3 amended by Article 11, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[§ 4. The market operator may delist a financial instrument that has been admitted to trading on a Belgian regulated market that it organizes in the following cases:

1° should it consider that, due to exceptional circumstances, a normal and regular market cannot be maintained for that instrument;

2° where the instrument no longer complies with the rules of the regulated market, unless such a measure is likely to significantly prejudice the interests of investors or the proper functioning of the market.

The market operator shall give prior notification of this to the FSMA, which, after discussion with the operator, may oppose this action in the interest of protecting investors.]

§ 4 replaced by Article 11, 3° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

§ 5. The market operator shall take the necessary measures to ensure that its commercial interests do not interfere with independence of judgement in the performance of the tasks referred to in §§ 2 to 4.

§ 6. The staff members of the market operator involved in the performance of the tasks referred to in §§ 2 to 4 shall be bound by professional secrecy and may not divulge the confidential information that they have obtained in the performance of those tasks. However, this prohibition shall not affect the communication of such information:

1° to the FSMA, to persons performing functions similar to those referred to in §§ 2 to 4 on other regulated markets and, in general, to Belgian or foreign authorities or institutions that are charged with the supervision of the markets for financial instruments in respect of matters falling within their competence, on condition that the information exchanged in this way be covered by an equivalent obligation of secrecy on the part of the authorities or institutions receiving that information;

2° during testimony before the court in criminal proceedings;

3° in respect of notification of criminal offences to the judicial authorities;

4° in respect of procedures of administrative or judicial appeal against the decisions referred to in §§ 2 to 4.

[Without prejudice to §§ 3 and 4 and notwithstanding the option that market operators organizing Belgian regulated markets have of directly informing market operators organizing other regulated markets, a market operator organizing a Belgian regulated market that suspends trading in a financial instrument, or delists that instrument, shall make its decision to do so public and shall communicate to the FSMA the information on which it has relied in this matter. The FSMA shall inform ESMA and the appropriate competent authorities of the other Member States.]

§ 6, 2nd paragraph inserted by Article 11, 4° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007 and replaced by Article 14 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 7. The financial instruments issued by a market operator or by a legal person with which such an operator is closely connected may be admitted to trading on a Belgian regulated market that is organized by this operator only with the prior consent of the FSMA and under the conditions that the FSMA may stipulate with a view to avoiding conflicts of interest. The suspension and delisting of such financial instruments shall be pronounced by the FSMA in accordance with the market rules in force.

Article 8

In order to ensure the proper functioning, integrity and transparency of the market, the market rules of a Belgian regulated market shall:

1° organize trading in such a way as to promote efficient and transparent price-setting in the interest of all investors;

2° provide appropriate implementing measures for setting the key reference prices, including daily closing prices, and for the creation of derivative instruments and indices, in order to make those prices, instruments and indices less susceptible to manipulation and other forms of market abuse;

3° lay down appropriate procedures for the filtering of orders, including adequate control procedures where orders are transmitted electronically;

4° provide appropriate measures for orders to be frozen, or trading to be interrupted, should prices become too volatile.

Article 9

The King determines, upon the recommendation of the FSMA:

1° the obligations of financial intermediaries with regard to the storage of data concerning transactions, whether or not executed on the market, in financial instruments admitted to trading on a regulated market, with a view to making the data available to the FSMA or to authorities or institutions responsible for the supervision of financial markets if need be;

2° the cases in which financial intermediaries shall notify the institutions to be designated by Him of transactions, whether or not carried out on the market, in financial instruments admitted to trading on a regulated market, as well as the time limits and more detailed rules regarding such notification;

3° the minimum requirements:

a) regarding the publication of market data, both pre-trade and post-trade, relating to transactions in financial instruments executed on Belgian regulated markets;

[b) regarding the publication of market data, both pre-trade and post-trade, relating to transactions in financial instruments admitted to trading on a regulated market, where these are executed outside the market;]

3° b) replaced by Article 12, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[4° the rules regarding the sharing of the information referred to in 2° between the competent Belgian and foreign authorities, without prejudice to Articles 74 et seq. of this Law.]

4° inserted by Article 12, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 10

[§ 1. Issuers whose financial instruments are admitted, at their request or with their consent, to trading on a Belgian regulated market shall immediately disclose inside information that directly relates to them, including any significant change to information already disclosed. Such information shall also include any financial information that the issuer possesses.

The obligation referred to in the first paragraph shall not apply to public sector entities designated by the King upon the recommendation of the FSMA, under the conditions, if any, which He determines.

The issuer as referred to in the first paragraph may, under its own responsibility, postpone the disclosure of inside information referred to in the first paragraph if it considers that this disclosure is likely to prejudice its legitimate interests, provided that this postponement would not be likely to mislead the market, and provided that the issuer is able to ensure the confidentiality of that information. Upon the recommendation of the FSMA, the King determines the measures to be taken by the issuer to ensure confidentiality of the information in question.

Where an issuer or a person acting on its behalf or on its account, discloses to any third party the inside information the disclosure of which has been postponed within the normal exercise of his/her employment, profession or duties, then this inside information must be simultaneously disclosed to the public. Where the inside information has been disclosed to a third party unintentionally, the issuer must immediately disclose it to the public.

The fourth paragraph does not apply if the third party in question is bound by professional secrecy obligations, regardless of whether this is by law, regulation, a legal provision, or an agreement.

The issuer must inform the FSMA forthwith of its decision to postpone the public disclosure of inside information.

Issuers, as referred to in § 3, shall communicate any disclosure of inside information, as referred to in the first paragraph, to the FSMA except in the case of postponement of public disclosure in accordance with the third paragraph or with the applicable foreign legislation, or where they are not subject to an obligation to disclose inside information to the public as referred to in the first paragraph. The disclosure and its communication to the FSMA shall be carried out in accordance with the rules established by the King upon the recommendation of the FSMA on the basis of § 2, 5°.

§ 2. The King determines, upon the recommendation of the FSMA:

1° the obligations of the issuers of financial instruments referred to in § 3 that are admitted to trading on a regulated market, and, where applicable, of any other person who has requested admission to trading on a regulated market without the issuer's consent, as regards disclosure of information to the public:

a) periodically on their activities and results;

b) forthwith on direct and indirect changes to the rights associated with the financial instruments or their derivatives, and on new issues of loans;

2° the other obligations of the issuers or other persons referred to in 1° with respect to the holders of financial instruments, specifically arising from the admission of those instruments to trading on a regulated market, especially with a view to ensuring the equal treatment of holders who are in identical circumstances and to enabling those holders to exercise the rights associated with the financial instruments in question;

3° the options of the issuers referred to in 1° with respect to the holders of financial instruments as regards communication of information by electronic means, and in special cases, the determination of the venue for the general meeting.

4° the requirements regarding the accounting standards applied by the issuers referred to in 1° for the provision of financial information to the public;

5° the methods and deadlines for disclosure, transmission to the FSMA, and storage of the information referred to in 1° and 2° including the minimum standards for the storage mechanism(s);

6° Without prejudice to Articles 33 et seq., the rules applying to FSMA supervision - including competences and possible measures - of compliance with paragraphs 3, 4, and 5, and with the rules determined by application of this paragraph, 1° to 5° and especially the conditions in which the FSMA may, where an issuer or other person referred to in 1° remains in default:

a) itself, at the cost of the issuer or of that other person, publish particular information; or

b) itself inform the public that the issuer or that other person is failing to comply with its obligations.

The provisions laid down in implementation of the first paragraph, 4° shall be without prejudice to the regulatory competence vested in the Ministers responsible for Economic Affairs, for Justice and for the Middle Classes, or to the advisory competence of the Commission for Accounting Standards.

Where their financial instruments are admitted to trading on a Belgian regulated market, issuers as referred to [in § 1 and] in § 3 shall disclose such information as referred to in paragraph 1, and in § 1, in Dutch or in French, in compliance with any legal rules applicable under Belgian law, or, if no such rules apply, in Dutch, or in French, or in a language customary in the sphere of international finance.

§ 2, 3rd paragraph, amended by Article 49, 1° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

Where none of their financial instruments are admitted to trading on a Belgian regulated market, or where only debt securities with a denomination per unit of at least [EUR 100,000] are

admitted to trading on a regulated market, issuers as referred to in § 3, shall, by way of derogation from the previous paragraph, disclose the information referred to in the first paragraph and in § 1, in Dutch, or in French, or in a language customary in the sphere of international finance.

§ 2, 4th paragraph, amended by Article 49, 2° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

[The derogation referred to in the previous paragraph also applies to debt securities with a denomination per unit of at least EUR 50,000, which have already been admitted to trading on a regulated market before 31 December 2010, for as long as such debt securities are outstanding.]

§ 2, 5th paragraph, inserted by Article 49, 3° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

Where financial instruments are admitted to trading on a regulated market without the issuer's consent, the obligations under paragraphs 3 and 4 shall be incumbent not upon the issuer, but upon the person who, without the issuer's consent, has requested such admission.

§ 3. The issuers referred to in § 2, first paragraph, 1° are as follows:

1° in the case of an issuer of shares or an issuer of debt securities the denomination per unit of which is less than EUR 1,000:

a) issuers with their registered office in Belgium; or

[b) issuers with their registered office in a State that is not a Member of the European Economic Area and that have chosen Belgium as their home Member State in accordance with Article 7, § 1, first paragraph, iii), of the Law of 16 June 2006 on public offers of investment instruments and the admission of investment instruments to trading on a regulated market;]

§ 3, 1° b) replaced by Article 49, 4° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

2° for issuers not falling under 1° those issuers that have chosen Belgium from among the Member States of the European Economic Area where, if applicable, they have their registered office, and the Member States that have admitted their financial instruments to trading on a regulated market situated or operating on their territory, it being understood that such an issuer can only choose one of these Member States.

§ 4. For the purposes of the application of § 2, fourth paragraph, and of § 3, 1° 'debt securities' shall mean: bonds or other forms of negotiable securitized debt, with the exception of securities equivalent to shares in companies or that, if converted or if the rights conferred by them are exercised, give rise to a right to acquire shares, or securities equivalent to shares.

For the purposes of the application of § 2, fourth paragraph, debt securities in a currency other than the Euro shall be considered equivalent to debt securities with a denomination per unit of at least EUR [100,000] if the exchange value per unit on the date of issue is equivalent to at least EUR [100,000].

§ 4, 2nd paragraph, amended by Article 49, 5° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

[For the purposes of the application of § 2, fifth paragraph, debt securities in a currency other than the Euro shall be considered equivalent to debt securities with a denomination per unit of at least EUR 50,000 if the exchange value per unit on the date of issue is equivalent to at least EUR 50,000.]

§ 4, 3rd paragraph, inserted by Article 49, 6° of the Law of 17 July 2013 - Belgian Official Gazette 6 August 2013

For the purposes of the application of § 3, 1° debt securities in a currency other than the Euro shall be considered equivalent to debt securities with a denomination per unit of less than EUR 1,000 if the exchange value per unit on the date of issue is equivalent to less than EUR 1,000 or practically equal to EUR 1,000.

For the purposes of § 3, 2°:

1° the King may, upon the recommendation of the FSMA, determine the procedure to be followed by the issuer in making the choice referred to;

2° the King may, upon the recommendation of the FSMA, determine the minimum period of time during which the choice referred to remains valid.

§ 5. The King may, upon the recommendation of the FSMA, determine rules as regards cooperation by the FSMA with the competent authority of the home Member State within the meaning of Directive 2004/109/EC, determine in which circumstances the FSMA can take protective measures, and determine what protective measures the FSMA can take, in particular for issuers other than those referred to in § 3, whose financial instruments are admitted - whether or not exclusively - to trading on a Belgian regulated market.

The information on issuers referred to in the first paragraph shall be disclosed in Dutch, in French, or in a language customary in the sphere of international finance.

The King may, upon the recommendation of the FSMA, make all or some of the rules for disclosure and transmission to the FSMA laid down as regards information on issuers referred to in § 3, fully or partially applicable to the information on issuers other than those referred to in § 3, whose financial instruments are exclusively admitted to trading on a Belgian regulated market and which must be disclosed pursuant to the national legislation adopted for the purposes of transposing Directive 2004/109/EC.

§ 6. The King may, upon the recommendation of the FSMA, under the conditions, where applicable, that He determines, wholly or partially extend the application of this Article to - and ensure that certain provisions of its implementing decrees wholly or partially apply to - issuers whose financial instruments are traded or admitted to trading on an MTF. In particular, the King may adapt the rules laid down in this Article or in its implementing decrees to the specifics of the MTF in question.

When exercising this power, the King may, where applicable, lay down specific rules for certain types of issuer, for certain types of MTF, or for individual MTFs that He designates.

§ 7. The King may, upon the recommendation of the FSMA, provide that an issuer governed by Belgian law at least part of the voting securities of which are admitted to trading on a regulated market, must disclose certain information in its annual report as referred to in Articles 95 and 119 of the Companies Code, relating in particular to its protection against takeover bids, and that the Board of the company concerned must present an explanatory report on the subject to the shareholders' AGM.

§ 8. The public prosecutor's office shall inform the FSMA of any summons it issues as part of a declaration of bankruptcy, or within the framework of the Law of 31 January 2009 on the continuity of undertakings, concerning an issuer whose financial instruments are admitted to trading on a Belgian or foreign regulated market.

The clerk of the Commercial Court shall inform the FSMA as soon as possible, and at the latest within 24 hours, of any request to open judicial reorganization proceedings submitted by an issuer referred to in the first paragraph, of any decision to declare bankruptcy by the Court with respect to such an issuer, of any decision made by the President of the Court with respect to such an issuer within the scope of Article 8, first paragraph, of the Law of 8 August 1997 on Bankruptcy, and of the decisions made by the Court pursuant to a report from the judge-delegate or on request or summons by the public prosecutor's office concerning such an issuer within the scope of the aforementioned Law of 31 January 2009.

The first and second paragraphs are without prejudice to the obligations of issuers with regard to provision of information to the public.]

§ 8 amended by Article 35 of the Royal Decree of 19 December 2010 - Belgian Official Gazette 24 January 2011 and replaced by Article 15 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article replaced by Article 42 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

Article 11

[...]

Article abrogated by Article 13 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 12

§ 1. The FSMA shall be given prior notification of any agreement establishing mutual access of members between a Belgian regulated market and one or more other secondary markets for financial instruments. The FSMA shall verify whether Article 6 and the provisions adopted in application of the same have been complied with. The agreement may be implemented only

provided that the FSMA has not informed the market operators concerned, in writing, of any objection, within thirty days of notification of the agreement.

§ 2. The interconnection of a Belgian regulated market with any trading platform or centralized automated trading system established with one or more other secondary markets for financial instruments must be approved by the Minister, upon the recommendation of the FSMA. The Minister may make this approval dependent upon any appropriate condition aimed at avoiding regulatory arbitrage or other specific risks that could harm investors or the proper functioning, integrity, or transparency of the market.

Article 13

§ 1. In the event of an exceptional disruption to the orderly functioning of a Belgian regulated market, the FSMA may, following discussion with the market operator concerned, partially or fully suspend trading on that market for a maximum of [ten] consecutive trading days. When this period has elapsed, the suspension can be imposed by way of a Royal Decree made on the recommendation of the FSMA.]

§ 1, first paragraph, amended by Article 16, 1° and 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[In the event of exceptional circumstances that disrupt or risk disrupting the functioning or stability of a Belgian regulated market, of one or more financial instruments admitted to trading on a Belgian regulated market or of issuers of such instruments, the FSMA may, having previously consulted the Bank for an opinion, take measures to restrict the terms of trading of financial instruments for a period not exceeding one month. The application of these measures can be extended and, where applicable, the methods thereof can be adapted by the FSMA, having previously consulted the Bank for an opinion, and for a duration of no more than three months from the first decision. These measures shall be made public. Beyond the aforementioned term, the application of these measures can be extended by way of Royal Decree, made on the recommendation of the FSMA.

The measures referred to in the second paragraph directly or indirectly concern all financial instruments admitted to trading on a Belgian regulated market, or those specified more particularly in the measures themselves. They can concern trading of these financial instruments both on the market concerned and outside of that market, as well as trading, in any location, of financial instruments whose value depends on the financial instruments in question or that relate to the issuer of these financial instruments or to a company associated with the issuer. The measures can concern either the trading itself or the position of one or more of the aforementioned financial instruments.

§ 1, 2nd and 3rd paragraphs inserted by Article 16, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. In the event of a sudden crisis on the financial markets, the King may, upon the recommendation of the [Bank] and the FSMA, take all necessary protective measures with regard to Belgian regulated markets, including temporary derogations from the provisions of this Chapter.

1st paragraph amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Decrees issued pursuant to the first paragraph shall cease to have effect where they are not confirmed by law within twelve months from the date of their entry into force.

Section 2

[Specific provisions for] financial instruments that are issued or guaranteed by the State or Belgian public bodies [or the value of which is dependent on a financial instrument that is issued or guaranteed by the State or Belgian public bodies]

Title amended by Article 14 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007 and supplemented by Article 201 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

Article 14

§ 1. With regard to the financial instruments issued or guaranteed by the State or by the Belgian public bodies that He indicates, the King may, upon the recommendation of the Bank and the FSMA:

§ 1. [With regard to the financial instruments that He indicates and that are issued or guaranteed by the State or by Belgian public bodies, or the financial instruments that He indicates and the value of which is dependent on a financial instrument that is issued or guaranteed by the State or Belgian public bodies, the King may, upon the recommendation of the Bank and the FSMA:]

Introduction to § 1 amended by Article 202, 1° a) of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

1° in respect of instruments that are traded on a Belgian regulated market [or a Belgian MTF], determine specific rules for their admission to trading, their suspension or delisting, and the manner of settling transactions in these instruments;

§ 1, 1° amended by Article 15, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

2° authorize the State, the Communities, the Regions, the Commission of the French Community and the Securities Regulation Fund (*Fonds des Rentes/Rentenfonds*) directly to conduct transactions in such instruments on a Belgian regulated market, without requiring those entities to be members thereof;

3° regulate the organization, the operation, the supervision and the policing of [Belgian regulated markets and MTFs] specialized in such instruments;

§ 1, 3° amended by Article 15, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

4° develop a specific supervisory system for [transactions] in these instruments, derogating, where applicable, from the provisions of Section 8;

§ 1, 4° amended by Article 15, 3° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

5° reorganize the Securities Regulation Fund (Fonds des Rentes/Rentenfonds), transfer certain of its powers to the [Bank] or to the FSMA and to this end modify, supplement, replace or abrogate the provisions of the Statutory Order of 18 May 1945 on the creation of a Securities Regulation Fund (Fonds des Rentes/Rentenfonds);

§ 1, 5° amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[6° determine the way in which the public must be informed about the secondary market for these instruments.]

6° inserted by Article 202, 1° b) of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

§ 2. Decrees issued pursuant to the first paragraph, 5°, shall cease to have effect where they are not confirmed by law within twelve months from the date of their entry into force.

[§ 3. The FSMA is charged with the supervision of the information on the transactions carried out by the market makers referred to in Article 16 of the Royal Decree of 20 December 2007 on linear bonds, split securities and treasury certificates, that these market makers have communicated to the FSMA under their specifications. The FSMA shall keep the Administrator-General of the Treasury and the Debt Agency informed of the monthly volumes achieved by the market makers.

The King also lays down the types of supervision, as well as the frequency and content of the communications to the Administrator-General of the Treasury and the Debt Agency.]

§ 3 inserted by Article 202, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Section 3

Other markets

Article 15

[Upon the recommendation of the FSMA, the King may determine rules regarding the organization, operation and supervision of MTFs established in Belgium.

The rules referred to in the first paragraph may concern, more particularly:

1° the access to the market in accordance with transparency criteria;

2° the existence of transparent and non-discretionary rules and procedures that guarantee fair and orderly trading, as well as objective criteria for the efficient execution of orders;

3° the application of adequate mechanisms and procedures to prevent, and to detect, market manipulation;

4° the publication of information concerning supply and demand, and transactions executed, as well as transaction reporting to the FSMA;

5° the cross-border activities of Belgian MTFs;

6° without prejudice to other powers granted to the FSMA by virtue of this Law, the supervisory powers of the FSMA, as well as the measures and sanctions that may be applied in the event of failure to comply with the applicable rules.

The King may, in exercising the power vested in Him by this Article, where applicable, determine specific rules for specific types of markets or individual markets designated by Him.

Upon the recommendation of the FSMA, the King may determine rules for foreign MTFs established in Belgium or that offer services with no registered office.]

Article replaced by Article 16 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Section 4

Market operators

Article 16

All market operators established in Belgium and wishing to organize one or more regulated markets shall obtain prior authorization from the Minister.

Upon the recommendation of the FSMA, the Minister grants authorization to operators that request it and that satisfy the conditions stipulated in Article 17, § 1. The Minister may make the approval subject to additional conditions that he deems necessary to protect the interests of investors as well as the proper functioning, integrity and transparency of the markets organized by the market operator.

Article 17

§ 1. In order to be authorized as a market operator, an operator shall satisfy the following conditions:

1° the operator shall be established as a trading company;

2° the purpose of the company shall be limited to the organization of one or more secondary markets for financial instruments and, where applicable, to activities that are not of a nature to

be prejudicial to the interests of investors or the proper functioning, integrity or transparency of the markets organized by the operator;

3° natural or legal persons who, either directly or indirectly, hold at least 10 per cent of the operator's capital or voting rights shall possess the necessary qualities to ensure sound and prudent management of the operator;

[4° the persons tasked with the senior management of the operator and, where applicable, of the group they form part of, shall be of good repute and possess the appropriate experience to carry out their functions and to ensure the sound and prudent management and operation of the regulated market;]

§ 1, 4° replaced by Article 17, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

5° [the operator shall have adequate financial resources at its disposal to ensure orderly functioning, in accordance with the nature and scale of the transactions executed on the market and the range and degree of risks to which it is exposed,] and the financial position of the group it forms part of, where applicable, shall be sufficiently solid to ensure that no risks arise that could be prejudicial to the interests of investors or the proper functioning of those markets;

§ 1, 5° amended by Article 17, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

6° the operator shall have a management structure, administrative and accounting procedures and internal control systems which are appropriate to guarantee the proper functioning, integrity and transparency of the markets that it organizes;

7° the operator shall have mechanisms and procedures in place to prevent and detect market manipulation;

8° the operator's accounts shall be audited by one or more external auditors registered on the list of auditors accredited by the FSMA;

9° the structure of the group to which, where applicable, the operator belongs shall not hamper the supervision exercised by the FSMA;

[10° the operator shall be adequately equipped to protect itself from the risks it is exposed to, shall provide appropriate arrangements and systems to identify all significant risks to its operation, and shall take the necessary measures to limit these risks;

11° the operator shall make arrangements for the sound management of the technical transactions of the system, including taking effective precautions to overcome risks related to system failures;

12° the operator shall hold all the relevant information relating to orders and transactions and the services provided by it and ensure that this information is available to the FSMA for a period of five years;

13° the operator shall take measures to clearly identify and manage potential negative consequences for the operation of the regulated market or the market participants of any conflicts of interest between the proper functioning of the regulated market and the interests of the regulated market, or those of the owners thereof or the market operators organizing it, especially where such conflicts of interest could have an adverse effect on the accomplishment of any tasks that are delegated to the regulated market by the competent authority.]

§ 1, 10° to 13° inserted by Article 17, 3° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

§ 2. Market operators authorized pursuant to Article 16 shall continue to satisfy the conditions for authorization referred to in § 1 and, where applicable, those imposed in application of Article 16, second paragraph, in the exercise of their activities. The FSMA shall supervise compliance with these conditions.

§ 3. Upon the recommendation of the FSMA, the Minister may withdraw authorization as a market operator, either at the request of the operator concerned, or of his own accord where that operator no longer satisfies the conditions for authorization laid down in § 1 or, where applicable, those laid down in application of Article 16, second paragraph, or, in the event of serious shortcomings on the part of the operator in respect of its obligations pursuant to this Law or its implementing decrees.

[Art. 17bis

The market operators shall inform the FSMA prior to submitting or renewing an appointment, and of the non-renewal of appointment, or the dismissal of the persons involved in the senior management of the company or, where applicable, of the group to which it belongs.

When submitting an appointment of a person or persons involved in the senior management of the market operator or, where applicable, the group to which it belongs, the market operators shall provide the FSMA with the information and documentation necessary to enable it to assess whether these persons are of good repute and possess the appropriate experience as referred to in Article 17.

The FSMA shall issue a decision concerning the submission of an appointment or the renewal of an appointment within a reasonable period of time. For appointments or the renewal of appointments, the unanimous decision of the FSMA is required.

The market operators shall also inform the FSMA about any distribution of tasks between persons who are involved in the senior management of the market operator or, where applicable, of the group to which it belongs and also about any distribution of tasks between members of the management committee of the market operator or, where applicable, of the group to which it belongs, and also about any significant changes to this distribution of tasks.]

Article inserted by Article 18 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 18

The King determines, upon the recommendation of the FSMA:

1° the procedure for granting the authorization referred to in Article 16, more particularly with regard to the form of the application for the same, the evaluation of the dossier by the FSMA, the deadlines within which the Minister is required to make a decision and notify it to the applicant, and the remuneration payable to the FSMA for the evaluation of the dossier;

2° the procedure for the withdrawal of authorization, as well as the consequences of such withdrawal for the regulated markets organized by the market operator;

3° the fate of the authorization should the market operator be subject to a change in control, a merger, split or other form of restructuring.

Article 19

§ 1. Any natural or legal person intending to acquire the securities or share certificates of a market operator as referred to in Article 16, which would thereby, directly or indirectly, grant him/her/it at least 10 per cent of that operator's voting rights or capital, shall give prior notification of that intention to the FSMA. This shall apply likewise where any natural or legal person intends to increase his/her/its shareholding in such an operator and the consequent proportion of that capital or those voting rights held would thereby reach or exceed 10 per cent or any multiple of 5 per cent.

Article 1, §§ 3 and 4, second paragraph, and Article 2 of the Law of 2 March 1989 concerning the disclosure of large shareholdings in companies listed on the stock exchange and regulating takeover bids, and their implementing decrees, shall apply.

[The voting rights are calculated in accordance with the provisions of the Law of 2 May 2007, on the disclosure of significant shareholdings and in accordance with the provisions of its implementing decrees.]

§ 1, 2nd paragraph replaced by Article 43, 1° of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007 (entry into force on a date to be determined by the King)

§ 2. The FSMA may, within a period of thirty days from the receipt of the notification referred to in § 1, first paragraph, oppose the realization of the acquisition, where it has reasons to believe that the person concerned or, where applicable, the persons referred to in Article 2 of the aforementioned Law of 2 March 1989, do not possess the necessary qualities to ensure sound and prudent management of the market operator concerned. In the absence of any opposition, the acquisition shall take place within six months of the notification referred to in § 1, first paragraph, failing which it shall, in accordance with § 1, be re-notified to the FSMA, which may oppose this, pursuant to this paragraph.

§ 2. The FSMA may, within a period of thirty days from the receipt of the notification referred to in § 1, first paragraph, oppose the realization of the acquisition, where it has reasons to believe that the person concerned or, where applicable, [the persons who are in one of the situations referred

to in Article 9 of the aforementioned Law of 2 May, 2007] do not possess the necessary qualities to ensure sound and prudent management of the market operator concerned. In the absence of any opposition, the acquisition shall take place within six months of the notification referred to in § 1, paragraph 1, failing which it shall, in accordance with § 1, be re-notified to the FSMA, which may oppose this, pursuant to this paragraph.

§ 2 amended by Article 43, 2° of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007 (entry into force on a date to be determined by the King)

§ 3. Where an acquisition as referred to in § 1 has taken place without notification to the FSMA in accordance with said § 1 or before the FSMA has given its opinion, pursuant to § 2, or, where applicable, before the expiry of the deadline of thirty days referred to in said § 1, the FSMA may suspend the exercise of the voting rights attaching to the shares or share certificates of the market operator concerned, which have been thus, directly or indirectly, irregularly acquired until such time as the situation is rectified.

Where an acquisition as referred to in § 1 has taken place notwithstanding the objection of the FSMA pursuant to § 2 or where, in general, the FSMA has reasons to believe that the influence exercised by a natural or legal person holding, directly or indirectly, at least 10 per cent of the voting rights or capital of a market operator as referred to in Article 16, or, where applicable, by the persons referred to in Article 2 of the aforementioned Law of 2 March 1989 is of a nature to jeopardize the sound and prudent management of the market operator, the FSMA may, without prejudice to other measures stipulated in the present chapter:

Where an acquisition as referred to in § 1 has taken place notwithstanding the objection of the FSMA pursuant to § 2 or where, in general, the FSMA has reasons to believe that the influence exercised by a natural or legal person holding, directly or indirectly, at least 10 per cent of the voting rights or capital of a market operator as referred to in Article 16, or, where applicable, [by persons who are in one of the situations referred to in Article 9 of the aforementioned Law of 2 May 2007] is of a nature to jeopardize the sound and prudent management of the market operator, the FSMA may, without prejudice to other measures stipulated in the present chapter:

§ 3, 2nd paragraph amended by Article 43, 3° of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007 (entry into force on a date to be determined by the King)

1° suspend the exercise of voting rights attaching to the shares or share certificates of the market operator in question and held, directly or indirectly, by the persons concerned;

2° demand that those persons transfer, within a term it shall determine, all or a portion of the shares or share certificates concerned to other persons with whom they have no close connections.

Failing the transfer within the term referred to in the second paragraph, 2°, the FSMA may order the sequestration of the shares or share certificates concerned. In that case, Article 67, § 7, second and third paragraphs, of the aforementioned Law of 6 April 1995 shall apply.

[§ 4. The market operator shall:

1° disclose information to the FSMA and to the public on the ownership structure of the market operator, and more particularly on the identity of parties who own, directly or indirectly, at least 10 per cent of its capital or voting rights or who are in a position to exercise significant influence over the operation of the business of the regulated market, as well as the size of the interest held by these persons; and

2° disclose information to the FSMA and to the public on any transfer of ownership which gives rise to a change in the identity of the persons that have significant influence on the operation of the regulated market.]

§ 4 inserted by Article 19 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 20

In order to ensure compliance with the condition stipulated in Article 17, § 1, 5°, the FSMA may, by means of a regulation:

1° set the financial ratios that market operators as referred to in Article 16 are required to observe on a consolidated and non-consolidated basis;

2° determine the financial information that market operators are required to notify to it periodically.

Section 5

Stockbrokers

Article 21

A stockbroker approval board shall be established. That board shall confer the designation of stockbroker or honorary stockbroker on persons that apply for it and that satisfy and continue to satisfy the conditions laid down by the King. The King regulates the composition, operation, financing and supervision of the aforesaid board. [The approval board has legal personality.]

1st paragraph amended by Article 44 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

[The FSMA and the Bank shall notify] on their own initiative the stockbroker approval board of confidential information that it [might] have concerning natural persons as referred to in the first paragraph.

2nd paragraph amended by Article 203 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Section 5bis

Codification of financial instruments issued in Belgium

Article 21bis

The Minister responsible for Finance designates the institution tasked with ensuring the codification of financial instruments issued in Belgium.

Any legal or regulatory provision referring directly or indirectly to the institution tasked with ensuring codification of financial instruments issued in Belgium must be understood to mean the institution referred to in the previous paragraph. This institution succeeds any other to which reference is made ipso jure.

Section inserted by Article 86 of the Law of 22 December 2009 - Belgian Official Gazette 31 December 2009

Section 6

Clearing and settlement institutions

Article 22

[...]

Article abrogated by Article 204 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 23

The settlement institutions and institutions equivalent to settlement institutions in application of Article 36/26, § 7, of the Law of 22 February 1998 establishing the Organic Statute of the National Bank of Belgium:

- shall take suitable organizational and administrative measures to prevent conflicts of interest between the institutions, their management, senior directors, employees and representatives, or any other company associated with them on the one hand and their clients on the other hand, or between clients themselves, that could be prejudicial to the interests of clients;

- shall hold details of the services and activities provided by them to enable the FSMA to establish whether they are complying with their obligations to their clients or potential clients.

- shall, where they hold financial instruments for safe-keeping that belong to their clients, take the necessary measures to safeguard the rights of their clients in the event of their insolvency. They shall take the necessary measures to prevent financial instruments belonging to clients being used for their own account, unless the clients in question expressly agree to this.]

Article replaced by Article 205 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 23bis

[...]

Article inserted by Article 6 of the Law of 2 June 2010 - Belgian Official Gazette 14 June 2010 and abrogated by Article 206 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[Article 23ter

[...]

Article inserted by Article 4 of the Law of 2 June 2010 - Belgian Official Gazette 14 June 2010 and abrogated by Article 206 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[Article 23quater]

Article renumbered by Article 6 of the Law of 2 June 2010 - Belgian Official Gazette 14 June 2010

§ 1. The investment firms and credit institutions from other Member States have the right to access settlement and clearing institutions in Belgium, including central counterparty systems for the settlement of transactions in financial instruments or making arrangements therefor. The access of these investment firms and credit institutions to such institutions is subject to the same non-discriminatory, transparent and objective business criteria as that which applies to Belgian participants, and refers to all transactions irrespective of whether or not they are carried out on a regulated market or MTF established in Belgium.

§ 2. All Belgian regulated markets shall grant all members or participants the right to designate the system for the settlement of transactions in financial instruments of the relevant regulated market provided that the links and arrangements exist between the indicated settlement system and any other systems and facilities to ensure that the efficient and economical completion of the transaction in question is guaranteed.

The FSMA may not forbid the use of such a system unless it has objective and demonstrable reasons to suspect that the technical conditions for the settlement of transactions executed on the regulated market in question via a settlement system other than that indicated by the regulated market could be prejudicial to the proper and orderly functioning of the financial markets.

This decision by the FSMA is without prejudice to the competences of the national central banks as supervisors of the settlement systems or of other authorities that supervise other such systems. In exercising its aforementioned competences, the FSMA shall appropriately take into account the supervision and/or the oversight already exercised by other authorities.

The rights referred to in § 1 and § 2 of investment firms and credit institutions are without prejudice to the right of operators of settlement and clearing systems, including central counterparty systems to refuse to make these systems available on legitimate commercial grounds.

§ 3. The Belgian investment firms, credit institutions and market operators that operate an MTF are permitted to make appropriate agreements with clearing or settlement institutions, including central counterparty systems from another Member State with a view to settling and/or clearing some or all transactions that market operators have carried out via their systems.

The FSMA may not forbid the use of settlement or clearing institutions including central counterparty systems from another Member State, unless it has objective and demonstrable reasons to expect that this is necessary to maintain the orderly functioning of the MTF, taking into account the terms established in § 2 for settlement systems.

In exercising this competence, the FSMA shall appropriately take into account the supervision and/or oversight that has already been exercised on these institutions by the national central banks as supervisors of the clearing and settlement systems or by other authorities with supervisory powers over such systems.

§ 4. The Belgian regulated markets are permitted to make appropriate agreements with clearing or settlement institutions, including central counterparty systems from another Member State with a view to settling and/or clearing some or all transactions that market operators have executed via their systems.

The FSMA may not forbid the use of clearing or settlement institutions including central counterparty systems from another Member State, unless it has objective and demonstrable reasons to expect that this is necessary to maintain the orderly functioning of the regulated market, taking into account the terms established in § 2 for clearing systems.

In exercising this competence, the FSMA shall appropriately take into account the supervision and/or oversight that has already been exercised on these clearing and settlement institutions by the national central banks as supervisors of the clearing and settlement systems or by other authorities with supervisory powers over such systems.

This Article does not apply to the members of the European System of Central Banks and other national institutions with a comparable role, or other government institutions that are tasked with the management of government debt or involved with such management.]

Article inserted by Article 20 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Section 7

Transactions in financial instruments and [...] rules of conduct

Title amended by Article 17 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Sub-section 1

Use of qualified intermediaries]

Title inserted by Article 207 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 24

Investors established in Belgium must use a qualified intermediary for their transactions in financial instruments that are issued by undertakings and entities incorporated under Belgian law and admitted to trading on a Belgian regulated market.

The first paragraph shall not apply to:

1° occasional transactions between private individuals;

2° the transfer of financial instruments conferring at least 10 per cent of the voting rights of the issuing company or entity in question;

3° the transfer of financial instruments conferring voting rights between closely connected companies;

4° transactions between compartments of the same undertaking for collective investment as referred to in Book III of the Law of 4 December 1990 on financial transactions and financial markets.

The King may, upon the recommendation of the FSMA, exclude professional investors from the scope of the first paragraph, where applicable, under the conditions and within the limits that He determines.

[Sub-section 2

Market abuse]

Title inserted by Article 208 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 25

§ 1. It is prohibited for any person:

[1° possessing information that he or she is aware, or ought to be aware, constitutes inside information:]

§ 1, 1° replaced by Article 345, 1° of the Programme Law of 23 December 2003 - Belgian Official Gazette 31 December 2003

a) [...] to acquire or dispose of, or try to acquire or dispose of, for his/her own account or for the account of a third party, either directly or indirectly, financial instruments to which that information refers [...];

§ 1, 1° a) amended by Article 345 2° of the Programme Law of 23 December 2003 - Belgian Official Gazette 31 December 2003 and abrogated by Article 4, 1° of the Royal Decree of 24 August 2005 – Belgian Official Gazette 9 September 2005

b) to disclose that inside information to any other person, unless such disclosure is made in the normal course of the exercise of his/her employment, profession or duties;

c) on the basis of inside information, to recommend that a third party acquire or dispose of, or induce others to acquire or dispose of financial instruments to which that information refers[...];

§ 1, 1° c) amended by Article 4, 1° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

2° to carry out transactions or place orders:

a) which give, or are likely to give, false or misleading signals regarding the supply of, demand for, or price of one or more financial instruments; or

b) which, through one person or persons acting in concert, secure an abnormal or artificial price level for one or more financial instruments, unless the person who has carried out the transactions or placed the orders demonstrates legitimate reasons for doing so, and that these transactions or orders are in accordance with [the accepted market practices that apply on the market concerned];

§ 1, 2° b), last paragraph amended by Article 4, 2° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

3° to carry out transactions or place orders that employ fictitious structures or any other form of deception or contrivance;

4° to disseminate information or rumours through the media or the Internet or by any other means, which give, or are likely to give, [false or] misleading signals as to financial instruments, where the person in question knew, or ought to have known, that the information was [false or] misleading. [In the case of journalists acting in their professional capacity, this dissemination of information shall be assessed in light of the ethical rules that apply to their profession, unless these persons directly or indirectly obtain an advantage or a gain from the dissemination of this information;]

§ 1, 4° amended by Article 4, 3° and 4° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

5° to commit other acts, as defined by the King upon the recommendation of the FSMA, that hamper or disrupt the proper functioning, integrity and transparency of the market or could do so;

6° to participate in any agreement, the object of which is to commit acts as referred to in 1° to 5°;

7° to incite one or more other persons to commit acts that, were he/she himself/herself to commit them, would be prohibited under 1° to 5°.

[For points 2° and 3° of the previous paragraph, the King, upon the recommendation of the FSMA, determines which signals are relevant for the FSMA when investigating potential market manipulation, as well as within the scope of the obligations laid down in Article 25bis, § 4.]

§ 1, 2nd paragraph inserted by Article 4, 5° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

§ 2. In the case of a company or other legal person, the prohibitions laid down in § 1 shall likewise apply to the natural persons who take part in the decision to execute a transaction or place an order on behalf of the legal person concerned.

The prohibition laid down in § 1, 1° a) shall not apply to transactions carried out to execute the commitment to acquire or dispose of financial instruments where that commitment has become due and arises from an agreement concluded prior to the person concerned coming into possession of the inside information in question.

The prohibitions laid down in § 1 shall not apply to transactions carried out within the scope of monetary, exchange-rate or government debt management policy by a Member State of the European Economic Area, by the European System of Central Banks, by the [Bank] or by any other central bank of the other Member States of the European Economic Area, by the Securities Regulation Fund (Fonds des Rentes/Rentenfonds), by the Caisse d'amortissement de la dette publique/Amortisatiekas voor de Staatsschuld (Public Debt Bureau), by the Communities, the Regions, the Commission of the French Community, the provinces, the municipalities and agglomerations and federations of municipalities or by any person acting on behalf of one of the aforementioned persons.

§ 2, 3rd paragraph amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[The prohibitions laid down in § 1 shall not apply to trading in own shares in "buy-back" programmes or to the stabilization of a financial instrument, provided such trading is carried out in accordance with Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilization of financial instruments. With a view to the implementation of the aforementioned Regulation, the necessary provisions are laid down by the King, upon the recommendation of the FSMA.]

§ 2, 4th paragraph inserted by Article 4, 6° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

§ 3. The prohibitions laid down in § 1 shall apply to the deeds referred to in the same:

1° that concern financial instruments admitted to trading on a foreign regulated market or on any other market or alternative trading system referred to in Article 15 and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or trading system has been applied for, irrespective of whether the deeds in question occur in Belgium or abroad [and irrespective of whether the transactions in question are carried out on the market concerned or outside it].

§ 3, 1° amended by Article 4, 7° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

2° that concern financial instruments admitted to trading on a foreign regulated market or on any other market or alternative trading system organized abroad and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or trading system has been applied for, insofar as the deeds in question occur in Belgium, irrespective of whether the transactions in question are carried out on the market concerned or outside it.

[The prohibitions laid down in [§ 1] shall also apply to the deeds referred to therein relating to financial instruments not admitted to trading on the markets or alternative trading systems as referred to in 1° or 2° of the previous paragraph, but the value of which depends on a financial instrument as referred to in 1° or 2° of the previous paragraph.] [or relating to the issuer of a financial instrument referred to in 1° or 2° of the previous paragraph, or a company associated with this issuer].

§ 3, 2nd paragraph inserted by Article 4, 8° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005 and amended by Article 18, 1° and 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[§ 4. Moreover, no one may disseminate information or rumours through the media, the internet or by any other means, which give or are likely to give false or misleading signals as to the situation - in particular the financial situation - of a credit institution, an insurance company, an investment firm, or a settlement institution or equivalent institution, which could threaten its financial stability, while the person in question knew or ought to have known that the information was false or misleading.

As far as journalists acting in their professional capacity are concerned, any omission, namely in terms of verifying information, shall be assessed in the light of the ethical rules or obligations that apply to that profession.]

§ 4 inserted by Article 10 of the Law of 2 June 2010 - Belgian Official Gazette 14 June 2010

[§ 5. All persons are prohibited from providing false or misleading information and from taking part in any other deed by way of which the calculation of a benchmark is manipulated.

For the application of this paragraph, a benchmark shall be understood to mean any commercial index or any published figures obtained by applying a formula to the value of one or more underlying assets or prices - including estimated prices, interest rates or other values - or to survey results, and by reference to which the amount to be paid out for a financial instrument is determined.

This paragraph is applicable insofar as the deeds in question are committed in Belgium or from the Belgian territory, irrespective of whether the benchmark is calculated in Belgium or abroad.]

§ 5 inserted by Article 18, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Art. 25bis

§ 1. Issuers whose financial instruments are admitted, upon their request or with their consent, to trading on a Belgian regulated market, or that form the subject of a request to be admitted as such, or the persons who work for or on behalf of the aforementioned issuers, shall compile a list of all persons who work for them (whether under an employment contract or otherwise) who have access to inside information on a regular or occasional basis that relates directly or indirectly to the issuer. The issuers, and the persons who work for or on behalf of them, must update this list regularly and if so requested, send it to the FSMA.

The information that must appear on this list, as well as the other associated obligations, is determined by the King upon the recommendation of the FSMA.

Upon the recommendation of the FSMA, the King may extend the application of the obligation referred to in this paragraph to:

1° issuers whose financial instruments are admitted to trading on any other market or alternative trading system as referred to in Article 15 and designated by the King in accordance with Article 25, § 3, 1° or whose admission to trading on such a market or trading system has been applied for;

§ 2. Persons discharging managerial responsibility at an issuer with a registered office in Belgium, the financial instruments of which are admitted to trading in a Belgian or foreign regulated market, or whose admission to trading on such a market or trading system has been applied for, and where applicable, persons closely connected with them, shall inform the FSMA of transactions carried out on their own account in shares that are issued by the issuer which they form part of, or in derivatives or other financial instruments linked to these. This obligation also applies for persons discharging managerial responsibility - and persons closely connected with them - at an issuer with a registered office not within a Member State of the European Economic Area, and that is obliged to provide information annually to the FSMA relating to shares in accordance with Article 10 of Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading, amending Directive 2001/34/EC.

The reporting period as well as the conditions under which the reporting can be deferred to 31 January of the following year are determined by the King upon the recommendation of the FSMA, and He determines the reporting terms and conditions, particularly the content of the report and the way in which the report must be completed, as well as the way in which the public obtains access to the information on the transactions reported on.

Upon the recommendation of the FSMA, the King may partially or completely extend the application of parts 1 and 2 of this paragraph to include:

1° persons discharging managerial responsibility at an issuer with a registered office in Belgium and whose financial instruments are admitted to trading on any other market or alternative trading system as referred to in Article 15 and designated by the King in accordance with Article

25, § 3, 1° or whose admission to trading on such a market or trading system has been applied for, and persons closely connected with them;

2° persons discharging managerial responsibility at an issuer with a registered office in Belgium and whose financial instruments are admitted to trading on any other market or alternative trading system organized abroad and designated by the King in accordance with Article 25, § 3, 2°, or whose admission to trading on such a market or alternative trading system has been applied for, and persons closely connected with them where these persons are not subject to equivalent obligations in the country in which the market or trading system in question is located.

§ 3. The persons referred to in Article 2, 25° who are established in Belgium or who work in Belgium and make or distribute recommendations regarding a financial instrument as referred to in Article 25, § 3, or regarding the issuer of that financial instrument, must take the appropriate measures to guarantee that the information constitutes an accurate representation, and that their interests or any conflicts of interest regarding the financial instruments that this information relates to are disclosed.

Upon the recommendation of the FSMA, the King determines the obligations that on the one hand are incumbent upon the persons who make these recommendations, particularly with respect to the disclosure of their identity, the accurate representation of investment recommendations and the disclosure to the public of interests and conflicts of interest, and on the other hand upon the persons who distribute recommendations made by third parties, particularly with respect to the disclosure of their identity and the distribution of investment recommendations. Upon the recommendation of the FSMA, the King may provide a full or partial exemption from the application of these requirements for certain professional groups where they form part of equivalent self regulation that complies with the provisions determined by the King upon the recommendation of the FSMA.

Upon the recommendation of the FSMA, the King may partially or completely extend the application of these obligations to the persons referred to in Article 2, 25°, who are registered (or work) abroad and make or distribute recommendations on a financial instrument such as referred to in Article 25, § 3, 1°, where these persons are not governed by equivalent obligations abroad.

§ 4. Qualified intermediaries with their head office in Belgium, or who are authorized to provide investment services through a branch in Belgium, must inform the FSMA forthwith if they have a reasonable suspicion that a transaction involves insider trading or market manipulation with regard to a financial instrument such as referred to in Article 25, § 3. The concrete methods as regards this, including the transactions and data that must be reported, the deadline for reporting and the reporting methods, are determined by the King upon the recommendation of the FSMA.

The person who has reported this suspicion to the FSMA shall not inform any other person of this, and especially not the person in whose name the transactions have been carried out, or persons connected with these, except pursuant to a legal requirement to do so.

The reporting of information to the FSMA in good faith in accordance with legal provisions does not constitute a breach of any restriction on disclosure of information imposed by contract, or regulatory or administrative provisions, and shall not entail any liability on the part of the person who has reported the information.

§ 5. Public institutions that distribute statistics which could have a considerable effect on financial markets must do so in a fair and transparent manner.]

Article inserted by Article 5 of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[Sub-section 3

Rules of conduct]

Title inserted by Article 209 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 26

[The following are subject to the terms and conditions of business determined by and pursuant to Articles 27, 28, and 28bis:

1° Credit institutions and investment firms that are governed by Belgian law [with the exception of matters relating to branches established in another EEA Member State];

1° amended by Article 210, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

2° the branches of credit institutions and investment firms established in Belgium that are governed by the law of an EEA Member State for their transactions within the Belgian territory;

3° branches of credit institutions and investment firms established in Belgium that are governed by the law of third countries;

4° credit institutions and investment firms that are governed by the law of third countries that are authorized by law to offer services in Belgium for their transactions within the Belgian territory;

5° management companies of undertakings for collective investment established in Belgium, for their investment services [as referred to in Article 3, 23° of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios].

1st paragraph, 5° amended by Article 226, § 2 of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012

[Insurance companies must act honestly, fairly, and professionally in the best interests of their clients. The information that they provide must be correct, clear and not misleading. These

companies are subject, for all transactions offered on the Belgian territory, to the other rules of conduct provided for by and pursuant to Articles 27, 28, and 28bis, except where these are derogated from by or pursuant to the present Law.

Upon the recommendation of the FSMA and by way of a decree deliberated on in the Council of Ministers, the King may declare the rules of conduct provided for by and pursuant to Articles 27, 28 and 28bis not applicable, in whole or in part, to insurance companies, in order to see to it that only the types of insurance that He determines be subject to these rules or, more generally, to take into consideration the fact that insurance contracts are presented to clients.

Upon the recommendation of the FSMA and by way of a decree deliberated on in the Council of Ministers, the King may also provide for an adapted version of some of these rules of conduct, in order to clarify the range of application and scope of these rules for insurance companies, and more generally, to take into consideration the fact that insurance contracts are presented to clients. The decrees made pursuant to these powers shall be abrogated ipso jure if they are not confirmed by the law within 12 months of their publication in the Belgian Official Gazette (Moniteur Belge/Belgisch Staatsblad). The preceding phrase does not apply to derogations from the rules of conduct that are not provided for by Articles 27, 28 and 28bis but are provided for pursuant to these Articles.

Without prejudice to the foregoing, the King may, by way of a decree deliberated on in the Council of Ministers, upon the recommendation of the FSMA, also provide for rules for the prevention of conflicts of interest, that insurance companies must comply with for their transactions on the Belgian territory.]

2nd and 4th paragraph inserted by Article 19, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013 (entry into force on 1 January 2014)

[The persons referred to in the first paragraph and the persons to which the provisions of this subsection are declared [by the second paragraph] to apply in whole or in part, are referred to in this subsection as "the regulated undertakings"].

5th paragraph replaced by Article 210, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 and amended by Article 19, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013 (entry into force on 1 January 2014)

In accordance with the rules established by the King upon the recommendation of the FSMA, the aforementioned regulated undertakings are authorized to establish or close transactions with or between eligible counterparties when executing orders on behalf of clients and/or trading on their own account and/or receiving and transmitting orders, without being obliged to comply with the obligations provided for by and pursuant to Articles 27 and 28 as regards these transactions or as regards ancillary services directly linked to these transactions.

The rules determined by and pursuant to Article 27 and 28 are not applicable to transactions closed in accordance with the rules that govern an MTF between its members or participants or between the MTF and its members or participants relating to the use of the MTF. Nor do these rules apply for members and participants of regulated markets for transactions carried out between themselves on these markets. Nonetheless, the members or participants of an MTF or a

regulated market must comply with the obligations provided for by and pursuant to Articles 27 and 28 with regard to their clients where they execute orders on behalf of their clients via the systems of an MTF or a regulated market.

The rules referred to in Articles 27, 28 and 28bis do not apply to the members of the European System of Central Banks and other national institutions with a comparable role, or other government institutions that are tasked with the management of government debt or involved with such management.]

Article replaced by Article 21 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 27

[[§ 1. Regulated undertakings shall see to it that they act honestly, fairly and professionally in the best interests of their clients when they offer or provide financial products or services. When offering or providing investment services, they shall, in particular, comply with the rules of conduct referred to in §§ 2 to 12.]

§ 1 replaced by Article 20, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. [When offering or providing financial products or services, all information, including advertisements, addressed by the regulated undertaking to clients or potential clients shall be correct, clear, and not misleading.] Advertisements must be clearly recognizable as such.

§ 2 amended by Article 20, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[§ 2bis. The first and second paragraphs also apply to credit institutions governed by the law of an EEA State and that are authorized to exercise their activities in Belgium under the free provision of services, if they offer savings accounts on the Belgian territory.]

§ 2bis inserted by Article 20, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 3. Appropriate information must be provided in a manner that is understandable for clients or potential clients on:

- the regulated undertaking and its services;
- financial instruments and proposed investment strategies; this includes appropriate details and warnings on the risks inherent to investment in these instruments or to specific investment strategies;
- the execution venue; and
- costs and associated fees

in order that these clients are reasonably able to understand the nature and risks of the investment service and of the specific type of financial instrument that is being offered and,

consequently, to make investment decisions on an informed basis. This information may be provided in a standardized format.

§ 4. When providing investment advice or portfolio management services, the regulated undertaking shall obtain the necessary information regarding clients' or potential clients' knowledge and experience in the investment field relevant to the specific type of product or service, their financial circumstances, and their investment objectives so as to enable the undertaking to recommend investment services and financial instruments or to provide portfolio management services that are suitable for them.

Where a regulated undertaking does not obtain the information stipulated in paragraph 1 when providing investment advice or portfolio management services, it shall not recommend investment services or financial instruments or provide portfolio management services to the client or potential client.

§ 5. Regulated undertakings that provide investment services other than those referred to in § 4 shall gather all the information from the client or the potential client on his/her experience and knowledge of investment relating to the specific type of product or service that they intend to offer, that is required in order to be in a position to ascertain whether the product or investment service offered is suitable for this client.

In the event that the regulated undertaking considers, on the basis of the information received pursuant to the previous paragraph, that the product or service is not suitable for the client or potential client, the regulated undertaking shall warn the client or potential client of this. This warning may be provided in a standardized format.

In cases where the client or potential client opts not to provide the information referred to in the first paragraph, or where insufficient information is provided regarding his/her knowledge and experience, the regulated undertaking shall warn the client or potential client that such a decision will not enable the regulated undertaking to determine whether the service or product envisaged is suitable for him/her. This warning may be provided in a standardized format.

§ 6. Where regulated undertakings provide investment services that only involve the execution, reception or transmission of client orders, with or without ancillary services, they may provide those investment services to their clients without the need to obtain the information or make the determination provided for in § 5, provided all the following conditions are met:

- the above services relate to: shares admitted to trading on a regulated market or on an equivalent third country market, money market instruments, bonds or other forms of securitized debt (except for bonds or other forms of securitized debt that embed a derivative), UCITS and other non-complex financial instruments. A third country market shall be considered as equivalent to a regulated market where it appears on the list published by the European Commission in application of Article 19, § 6, of Directive 2004/39/EC.

- the service is provided on the client or potential client's own initiative;

- the client or potential client has been clearly informed that in the provision of this service, the regulated undertaking is not required to assess the suitability of the service or instrument offered and that he/she therefore does not benefit from the corresponding protection of the rules of conduct that would normally apply. This warning may be provided in a standardized format;

- the regulated undertaking shall comply with the conflict of interest regulations laid down by and pursuant to Article 20bis, § 2, of the Law of 22 March 1993 on the legal status and supervision of credit institutions, and Article 62bis of the Law of 6 April 1995 on the legal status and supervision of investment firms.

§ 7. The regulated undertaking shall put together a dossier containing the documents agreed by and between the undertaking and the client in which the rights and obligations of both parties are set out, as well as the general terms and conditions governing the services that the company shall provide to the client.

Where a regulated undertaking provides an investment service other than investment advice to a new non-professional client it shall enter into a basic agreement in writing and on paper or another durable medium, in which the main rights and obligations of both parties are established.

The rights and obligations of both parties for the purposes of this agreement can be laid down by referring to other documents or legal texts.

Upon the recommendation of the FSMA, the King may determine further rules in relation to the content of the agreements to be entered into with clients. These rules are without prejudice to statutory rights and obligations, it being understood that they can provide that portfolio management agreements may not incorporate any reduction in the statutory liability of the regulated undertaking.

§ 8. The client shall receive adequate reports on the service provided by the regulated undertaking to its clients. Where applicable, these reports shall include the costs associated with the transactions and services undertaken on behalf of the client.

§ 9. Where an investment service is offered as part of a financial product that is already governed by other provisions of Community legislation or other common European standards relating to credit institutions and consumer credit in the area of client risk assessment and/or information obligations, the obligations laid down in this Article do not apply to this service.

§ 10. The regulated undertakings authorized to execute orders on behalf of clients shall implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client orders relative to other client orders or the trading interests of the investment firm.

These procedures or arrangements shall allow for the execution of otherwise comparable client orders in accordance with the time of their reception by the regulated undertaking.

§ 11. Upon the recommendation of the FSMA and after open consultation, more detailed rules for the implementation of §§ 1 to 10, and in particular with a view to complying with the obligations arising from Directives 2004/39/EC and 2006/73/EC, are determined by the King. He can in particular determine that rules may differ depending on whether the client is professional or non-professional.

§ 12. Upon the recommendation of the FSMA and after open consultation, additional rules of conduct with a view to protecting the investor and the proper functioning of the market may be determined by the King.]

Article replaced by Article 22 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 28

[§ 1. The regulated undertaking, within the scope of its applicable operating requirements, shall take all reasonable measures when executing orders to obtain the best possible result for its clients with regard to price, cost, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of an order in accordance with the provisions of §§ 2 to 6. In the case of a specific instruction from the client, the regulated undertaking must however execute the order in accordance with the specific instruction.

§ 2. The regulated undertaking shall determine and maintain suitable arrangements in order to comply with § 1. It shall particularly determine and adopt policies regarding the execution of orders that enables it to obtain the best possible result for its clients in accordance with the provisions of § 1.

§ 3. The order execution policy shall include information on the various venues in which the regulated undertaking executes the orders of its clients, and the factors that influence the choice of venue, for each class of instrument. It shall include at least the execution venues that enable the regulated undertaking to consistently obtain the best possible results when executing client orders.

The regulated undertaking shall provide its clients with proper information about its order execution policy. The regulated undertaking shall obtain prior approval from its clients of its order execution policy.

Where an order execution policy provides for the possibility of executing orders outside a regulated market or MTF, the regulated undertaking shall inform its clients or potential clients of this possibility. The regulated undertaking shall obtain the express consent of its clients before executing client orders outside a regulated market or MTF. The regulated undertaking may obtain this consent either for each individual transaction or in the form of a general agreement.

§ 4. The regulated undertaking shall supervise the effectiveness of its order execution provisions and policy in order to enable it to detect any potential shortcomings and if so, redress them. In particular, it shall inspect its order execution policy periodically to identify whether its selection of execution venues obtains the best possible results for the client or whether it needs to make

changes to its execution provisions. The regulated undertaking shall inform its clients of any substantial changes to its order execution provisions or policy.

§ 5. The regulated undertaking shall, if requested, demonstrate to its clients that the orders have been executed in accordance with the undertaking's order execution policy.

§ 6. More specific rules for the implementation of §§ 1 to 5, and in particular in view of complying with the obligations arising from Directives 2004/39/EC and 2006/73/EC are determined by the King, upon the recommendation of the FSMA, and after open consultation. He can, in particular, determine that rules may differ depending on whether clients are professional or non-professional.]

Article replaced by Article 23 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Art. 28bis

§ 1. Regulated undertakings must act honestly, fairly and professionally and in a way that is conducive to maintaining the integrity of the market.

Rules for the implementation of the first paragraph, and in particular with a view to complying with the obligations arising from Directives 2004/39/EC and 2006/73/EC may be laid down by the King, upon the recommendation of the FSMA and after open consultation.

§ 2. Regulated undertakings shall settle their transactions in fungible financial instruments that have been admitted to trading on a Belgian regulated market, mutually through book-entry transfers.]

Article inserted by Article 24 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Article 28ter

§ 1. This Article refers to credit institutions as described in Article 26, first paragraph, as well as credit institutions governed by the law of an EEA State, that are authorized to exercise their activities in Belgium under the free provision of services.

§ 2. Where a credit institution presents a savings account as being a savings deposit benefiting from the application of Article 21, 5° of the Income Tax Code 1992, it must satisfy the criteria laid down in Article 2 of the Royal Decree implementing the 1992 Income Tax Code.

§ 3. In order to promote the honest, fair and professional treatment of savers, the King may enact rules that aim to promote transparency for savings accounts distributed on the Belgian territory and to make them easier to compare against each other. For this, the King may in particular lay down provisions regulating the range of savings accounts that can benefit from the application of Article 21, 5° of the 1992 Income Tax Code, as well as the conditions that a credit institution can attach to the offer of a savings account.

§ 4. The King may also lay down rules concerning the content and the method of presentation of advertisements and other documents and announcements relating to a savings account opened with a financial institution.

§ 5. For the application of the present Article, 'savers' must be understood to mean holders of a savings account, or natural or legal persons who wish to enter into a contract to open a savings account and who are not professional clients within the meaning of Article 2, 28° of this Law.]

Article inserted by Article 3, of the Law of 2 July 2010 - Belgian Official Gazette of 28 September 2010 and replaced by Article 21 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 29

Upon the recommendation of the FSMA and after open consultation, the King may:

1° determine rules of conduct that offerors are required to adhere to with regard to reporting and executing public offers or registrations of financial instruments in Belgium, whether or not in combination with the admission of those instruments to trading on a Belgian regulated market;

2° determine rules of conduct that financial intermediaries are required to adhere to when intervening in transactions as referred to under 1° in the capacity of lead manager or member of an underwriting or investment syndicate;

3° determine that undertakings and entities incorporated under Belgian law, whose financial instruments are admitted to trading on a regulated market or on any other Belgian or foreign market for financial instruments designated by Him in application of Article 25, § 3, or whose admission to trading on such a market has been applied for, shall establish a code of conduct regarding transactions that their representatives and employees could execute in the [financial instruments within the meaning of Article 25, § 3], as well as determine minimum rules that must be included in such a code;

3° amended by Article 6 of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[4° In accordance with the methods that He specifies, limit the transferability of financial instruments that are acquired outside a public offer or registration, under the terms that He lays down and for the period that He determines and that precedes the first admission of these instruments to trading on a Belgian regulated market or a Belgian MTF;]

4° inserted by Article 45 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

[5° determine rules that market participants must adhere to for trading financial instruments within the meaning of Article 25, § 3, 1°, with a view to improving transparency and the proper functioning of the financial markets, for which He can take into account the level of harmonization of the regulations in question within the European Community.] [These rules can concern the trading of the aforementioned financial instruments both on the market concerned and outside of that market, as well as trading, in any location, of financial instruments whose value depends on the financial instruments in question or that relate to the issuer of these

financial instruments or a company associated with this issuer. These rules can also concern the position of one or more of the aforementioned financial instruments.]

5° inserted by Article 4 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and supplemented by Article 22 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 30

The FSMA may:

1° in individual cases, permit derogations from the [provisions laid down by or pursuant to Articles 26 to 29] and on the condition that there be adequate, regular publication without mentioning the names of the parties, of the derogation policy followed, where it deems that the provisions concerned are unsuited to the activities or the situation of the financial intermediary, issuer or offeror in question, and on the condition that this intermediary, issuer or offeror take adequate alternative measures to ensure an equivalent level of protection of the interests of investors and of the integrity of the market;

1° amended by Article 25, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

2° determine by regulation, on the basis of best practices on the international financial markets, the conditions under which current market practices, particularly regarding price stabilization, transactions aimed at ensuring the liquidity of a financial instrument, communications with financial analysts, share buy-back programmes and the examination of information with a view to acquiring shares in undertakings listed on the stock exchange, may infringe the [provisions laid down by or pursuant to Articles 26 to 29];

2° amended by Article 25, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

3° determine by regulation the conditions under which an order for or a transaction on a regulated market [or on another market or alternative trading system as referred to in Article 15, and designated by the King in accordance with Article 25, § 3, 1°,] complies with [accepted market practices] for the application of Article 25, § 1, 2°.

3° amended by Article 7, 2° a) and b) of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[The procedure the FSMA must follow and the criteria that should be taken into consideration in the process is determined by the King upon the recommendation of the FSMA.]

2nd paragraph inserted by Article 7, 2° c), of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

[Article 30bis

On the advice of the Supervisory Board, and after having requested the opinion, at least one month in advance, of the Consumer Board (Conseil de la Consommation/Raad voor het Verbruik) created by way of the Royal Decree of 20 February 1964 establishing a Consumer Board, the

Management Committee of the FSMA may, without prejudice to the competences assigned to the Minister responsible for the Economy, and taking into account the interests of users of financial products and services, lay down regulations that:

1° prohibit or make subject to restrictive conditions the distribution - or certain forms of distribution - of financial products or certain classes of financial products to retail clients.

2° promote transparency of such products, of certain categories of such products, or of the risks, prices, remuneration and costs associated with such products by way of the obligation to affix a label or other.

3° recommend a standard questionnaire to define the investor profile of users of financial products.

For the purpose of the present Article, 'distribution' shall be understood to mean: presenting the product, in any way whatsoever, with a view to encouraging the client or the potential client to purchase, to subscribe to, to adhere to, to accept, or to sign up for or open the product in question.

Article 64, third paragraph, applies to these regulations.]

Article inserted by Article 23 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 30ter

§ 1. Without prejudice to jus commune and notwithstanding any stipulation to the contrary that is unfavourable to the user of financial products or services, in the event that a person referred to in the second paragraph commits a breach during a financial transaction defined in the second paragraph, of one or more of the provisions listed in the third paragraph, and the user of financial products or services concerned suffers damage as a result, the transaction in question shall be deemed to have resulted from the breach, unless proven otherwise.

The persons referred to in the first paragraph are:

1° the persons referred to in Article 26, first paragraph, as well as agents in banking and investment services;

2° credit institutions, investment firms and the management companies of undertakings for collective investment as regards their investment services that fall under Article 6, third paragraph, of Directive 2009/65/EC, that are governed by the law of another European Economic Area State and that exercise their activities in Belgium under the free provision of services;

3° without prejudice to 1° and 2°, and for the purpose of the third paragraph, 3° of the present Article only, credit institutions governed by the Law of a European Economic Area State, authorized to exercise their activities in Belgium under the free provision of services, if they distribute savings accounts on the Belgian territory;

4° without prejudice to 1°, insofar as it is established by the King by way of a Decree deliberated on in the Council of Ministers, insurance companies, insurance intermediaries and intermediaries in banking and investment services.

§ 2. For the application of the first paragraph, 'transaction' shall be understood to mean, depending on the case and in the broadest sense of the term, the purchase, sale, subscription, loan, exercise, placement, exchange, reimbursement, holding, supply or provision of a given financial product or service.

§ 3. The presumption laid down in the first paragraph is applicable in cases of infringement of the following legal provisions:

1° Articles 27, § 2, and 3 to 7 of the Law of 2 August 2002, as implemented by the provisions referred to in the fourth paragraph, 1°;

2° Article 27, § 2bis of the Law of 2 August 2002, as implemented by the provisions referred to in the fourth paragraph, 1° only insofar as this Article refers to the provisions of the second paragraph of the same Article and excludes the first paragraph;

3° in the case of an investment firm governed by the law of another European Economic Area State that operates in Belgium without establishing a branch in Belgium, the legal provisions of the home Member State transposing Article 19, paragraphs 2 to 7 of Directive 2004/39/EC as implemented by the provisions as referred to in the fourth paragraph, 2°;

4° the provisions designated by the King pursuant to the fourth paragraph.

§ 4. by Decree, deliberated on in the Council of Ministers,

1° the King designates the provisions of the decrees and regulations taken in application of Articles 27, §§ 2 to 7, 28ter, 30bis and 45, § 2 of this Law, of Article 12sexies of the Law of 27 March 1995 on insurance and reinsurance broking and the distribution of insurance, and of Article 14 of the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments, the infringement of which by the persons referred to in § 1, second paragraph shall also lead to the application of § 1;

2° the King supplements the provisions referred to in § 3, 2° with all or a part of the provisions of Directives 2004/39/EC and 2006/73/EC.

§ 5 This Article applies insofar as the deed referred to in the second paragraph has occurred after the entry into force of the present Law.

Any infringement of the provisions referred to in the third paragraph can only be invoked for the application of this Article for a period of five years from the day following that on which the user of the financial products and services has been made aware of the damage or of its aggravation and can in no case still be invoked after a period of twenty years has elapsed from the day following that on which the infringement in question has occurred.]

Article inserted by Article 64 of the Law of 30 July 2013 - Belgian Official Gazette 2013

[Sub-section 4

Preferential rights of qualified intermediaries and of settlement and clearing institutions, and exemption for gambling]

Title inserted by Article 211 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 31

§ 1. Qualified intermediaries shall have a preferential right [at the same level as that of the pledgee] to financial instruments, monies and foreign exchange:

§ 1 amended by Article 30, 1° of the Law of 15 December 2004 - Belgian Official Gazette 01 February 2005

1° deposited with them by their clients to constitute cover for the execution of transactions in financial instruments, for subscription to financial instruments or for forward exchange transactions;

2° held by them as a result of the execution of transactions in financial instruments or of forward exchange transactions or as a result of dedicated settlement of transactions in financial instruments, of subscription to financial instruments or of forward exchange transactions that are carried out directly by their clients. This preferential right guarantees all debt incurred by qualified intermediaries as a result of these transactions, operations or settlements referred to in the first paragraph, including debt incurred through loans or advances.

§ 2. Clearing and settlement institutions shall have a preferential right to financial instruments, monies, foreign exchange and other rights that they hold on an account as the assets of a participant in the clearing or settlement system that they manage. That preferential right shall guarantee all of the institution's claims on the participant, arising from the clearing or settlement of subscriptions to financial instruments or of transactions in financial instruments or forward exchange transactions, including the liabilities arising from loans or advances. The same institutions shall also have a preferential right to financial instruments, monies, foreign exchange and other rights that they hold on an account as the assets of clients of a participant in the clearing or settlement system that they manage. That preferential right shall guarantee exclusively the institution's claims on the participant, arising from the clearing or settlement of subscriptions to financial instruments, or of transactions in financial instruments or of forward exchange transactions executed by the participant on behalf of clients, including the liabilities arising from loans or advances.

§ 3. The subjection of financial instruments to a system of fungibility shall not prejudice the application of the preferential rights as referred to in §§ 1 and 2.

§ 4. Without prejudice to the more specific provisions particular to regulated markets that have been laid down by or pursuant to the Law, qualified intermediaries and clearing or settlement institutions shall, in the absence of payment of the claims guaranteed by the preferential right

laid down in §§ 1 and 2, be entitled, ipso jure, without notice of default and without prior court ruling, to proceed:

1° to realize financial instruments and forward exchange transactions that are the object of that preferential right;

2° to offset all claims against their clients or participants with the monies or foreign exchange deposited on their accounts that are the object of that preferential right;

3° to exercise the other rights as referred to in § 2 in place of the holder.

Realization of the financial rights and forward exchange transactions as referred to in the first paragraph, 1°, shall be at the most advantageous price and within the shortest possible term, taking account of the volume of the transactions. The right to proceed to realization as referred to in the first paragraph, 1°, likewise permits the closure of open positions resulting from the sale or purchase of an option or futures contract or as a result of the execution of a forward exchange transaction.

Pursuant to Article 1254 of the Civil Code, the proceeds of the realization of financial instruments and forward exchange transactions as referred to in paragraph 1, 1°, and the proceeds from the exercise of the other rights as referred to in paragraph 1, 3°, shall be imputed to the claim in principal, interest and costs of the qualified intermediary, or the clearing or settlement institution exercising the preferential right, after offsetting of claims as referred to in paragraph 1, 2°. Any balance in favour of the client or the participant shall be reimbursed to the titleholder as soon as possible, without prejudice to any other right that the qualified intermediary or the clearing or settlement institution may exercise against that balance.

The exercise of rights conferred on qualified intermediaries or clearing or settlement institutions pursuant to this paragraph shall not be suspended by the bankruptcy, [the reorganization proceedings] or the collectively negotiated settlement of debts of the client or the participant, or by the supervening of any other instance of arrangement with creditors of the client or participant.

§ 4 amended by Article 36 of the Royal Decree of 19 December 2010 - Belgian Official Gazette 24 January 2011

§ 5. [For placing of financial instruments by a financial intermediary on an account with a qualified intermediary or an institution as referred to in § 1 or in § 2, as a result of which these instruments are subject to the preferential right of this intermediary or institution, the consent of the client is required as referred to in Article 77bis of the Law of 6 April 1995 on the legal status and supervision of investment firms]. This provision shall be without prejudice to the rights of third parties that have acquired the financial instruments in good faith.

§ 5 amended by Article 26 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

Article 32

Article 1965 of the Civil Code shall not apply to transactions in financial instruments executed, on a regulated market or on any other market for financial instruments that is designated by the King upon the recommendation of the FSMA, with the intervention of a qualified intermediary, or with such an intermediary as counterparty, even where those transactions are settled by the payment of the difference in price.

Section 8

Supervision by the FSMA

Article 33

The FSMA shall supervise the application of the provisions [of this chapter and of its implementing decrees and regulations], [without prejudice to the competences conferred on the National Bank of Belgium by Articles 8, 63 and 64 of the Organic Law of the Bank].

Amended by Article 212 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 and by Article 24 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 34

[§ 1. For the purposes of carrying out its supervisory task as referred to in Article 33 or in order to respond to requests for cooperation made by the competent authorities within the meaning of Article 75, § 1, 3° or 4°, the FSMA has:

1° in respect of financial intermediaries [or other natural or legal persons subject to the rules concerned], members of a Belgian regulated market or MTF [market makers as referred to in Article 16 of the Royal Decree of 20 December 2007 on linear bonds, strips and treasury certificates,] market operators, MTFs, clearing or settlement institutions and institutions equivalent to clearing institutions, and issuers of financial instruments, the following powers:

§ 1, 1° amended by Article 213 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 and amended by Article 25, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Where the FSMA suspends or prohibits trading in a financial instrument on [a Belgian regulated market or MTF], it shall publish this decision immediately and inform the competent authorities of the other Member States.

§ 2, 3rd paragraph, amended by Article 25, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Where the FSMA is informed by another competent authority of the suspension or prohibition on trading in a financial instrument on one or more regulated markets, it shall suspend or prohibit trading in that financial instrument on one or more regulated markets and MTFs subject to its

supervision, unless such a measure is likely to be significantly prejudicial to the interests of investors or the proper functioning of the market.

§ 3. The FSMA may have forwarded to it any information or document, in any form whatsoever, by remote members of a Belgian regulated market established in the European Economic Area, or it may conduct on-site inspections and expert appraisals at their premises. Where the FSMA makes use of this power, it shall inform the competent authority of the home Member State.

The competent authorities of foreign regulated markets have the power, in respect of remote members of these markets that are established in Belgium, to have forwarded to them any information or document, in any form whatsoever, or to conduct on-site inspections and expert appraisals at their premises. Where they make use of this power, they shall inform the FSMA.

§ 4. Market operators, investment firms and credit institutions shall provide the FSMA with continuous access to the IT systems that make possible trading of financial instruments on the regulated markets and MTFs that come under the supervision of the FSMA.

Without prejudice to § 1, the FSMA may ask clearing and settlement institutions, and institutions equivalent to settlement institutions, to provide it with periodic information about transactions in financial instruments admitted to trading on the regulated markets and MTFs that come under the supervision of the FSMA, regardless of whether these transactions are carried out on the market or trading facility in question or outside it.]

Article replaced by Article 46 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

Article 35

[§ 1. [With regard to any natural person and any legal person, the FSMA has the authority to demand that any information or document in any form whatsoever be submitted to it and to gain access to any document in any form, for the purpose of:

1° [carrying out its supervisory task as referred to in Article 33, ensuring compliance with Articles 39 and 40, and verifying [that there is no infringement as referred to in Article 86bis];]

§ 1, 1° replaced by Article 5 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and amended by Article 26, a) of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

2° responding to requests for cooperation made by the competent authorities within the meaning of Article 75, § 1, 3° or 4°.

[3° responding to requests for information from ESMA, EIOPA, the EBA and the European Systemic Risk Board.]

§ 1, 3° inserted by Article 26, b) of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. The FSMA may ask the judicial authorities to gather any and all information and documents deemed necessary for the purposes laid down in § 1. The judicial authorities shall pass this information and these documents on to the FSMA, subject to the express permission of the

Procurator General being obtained prior to passing on information and documents that relate to pending legal proceedings.

The competent Procurator General may refuse to comply with the request referred to in the first paragraph where legal proceedings have already been initiated on the basis of the same facts and against the same persons, or where the latter have already received a final judgment on the basis of the same facts.

§ 3. Financial intermediaries may not execute transactions in financial instruments on behalf of, or at the request of, a person without informing that person that their intervention is subject to consent to disclose the identity of that person to the FSMA and to the competent authorities of the foreign regulated markets of which they are remote members.]

Article replaced by Article 47 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

Article 36

§ 1. The FSMA may order any [...] natural or legal person to comply with certain provisions of this chapter or with [the implementing decrees or regulations thereof] within a period that it shall specify.

§ 1, 1st paragraph amended by Article 27, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Without prejudice to other measures laid down by law, where the person to whom the FSMA has addressed an order in application of the first paragraph remains in default at the end of the period specified, the FSMA, on condition that the person has been heard, may:

1° make public its position with regard to the infringement or omission concerned;

2° impose the payment of a penalty, which shall not be less than EUR 250 or more than EUR 50,000 per calendar day, or in total exceed EUR 2,500,000;

3° in the case of a market operator [...] with a registered office established in Belgium, appoint a special auditor whose authorization shall be required for the actions and decisions that the FSMA shall determine.

§ 1, 2nd paragraph, 3° amended by Article 214 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

In urgent cases, the FSMA may take the measures as referred to in the second paragraph, 1° and 3°, without prior order in application of the first paragraph, provided that the person has been heard.

§ 2. Without prejudice to other measures laid down by law, the FSMA may, where, pursuant to Articles 70 to 72, it establishes an infringement of the provisions of the present chapter or [the implementing decrees or regulations thereof], impose an administrative fine on the offender that shall be no less than EUR 2,500 and no more than EUR 2,500,000 for the same deed or set of

deeds. Where the infringement has resulted in a capital gain for the offender, that maximum shall be raised to twice the capital gain and, in the event of a repeat offence, to three times the capital gain.

§ 2 amended by Article 27, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Art. 36bis

§ 1. Where the FSMA determines that a regulated undertaking as referred to in Article 26, first paragraph, 1°, 3° and 5°, or an insurance company, seriously infringes the rules referred to in Article 45, § 1, first paragraph, 3°, or § 2, causing prejudice to the interests of the parties concerned, or where there are serious gaps in the organization of the undertaking, as a result of which compliance with these rules cannot be guaranteed, the FSMA may, without prejudice to Article 36, set a deadline within which this situation must be remedied.

Where the undertaking referred to in the first paragraph is a credit institution, an insurance company or a stockbroking firm, the FSMA shall notify the Bank of the facts it has determined in respect of the undertaking in question.

§ 2. If the situation has not been remedied by the expiry of the deadline, the FSMA may:

1° suspend or prohibit, for a period it shall determine, the direct or indirect exercise of all or part of the undertaking's activities. In particular, it may prohibit the undertaking from continuing to offer its customers certain investment services, banking services or insurance services, or may prohibit it from continuing to offer such services in respect of certain financial instruments, investment products or insurance products.

Any member of the governing and management bodies and any person responsible for the management who takes actions or decisions in violation of the said suspension or prohibition is jointly and severally liable for any resulting prejudice to the undertaking or to third parties.

Where the FSMA has published the suspension or prohibition in the Belgian Official Gazette (Moniteur belge/Belgisch Staatsblad), any action or decision taken in contravention thereof shall be null and void.

2° order that the undertaking's directors or managers concerned be replaced, within a deadline that the FSMA shall determine, after having consulted the Bank as far as credit institutions, stockbroking firms and insurance companies are concerned. The FSMA shall publish its decision in the Belgian Official Gazette (Moniteur belge/Belgisch Staatsblad).

3° in the event of serious and systematic infringement of the rules referred to in Article 45, § 1, first paragraph, 3°, or § 2, request that the Bank revoke the undertaking's authorization, where a credit institution, insurance company or stockbroking firm is concerned; or where another type of company that is under the FSMA's supervision is concerned, revoke the authorization itself.

§ 3. Before adopting measures in respect of a credit institution, stockbroking firm or insurance company in application of § 2, 1° and 2°, the FSMA shall notify the Bank of the measures it intends to adopt.

The Bank shall have a period of ten days from the receipt of the said notification to oppose the proposed measures. The Bank may oppose the proposed measures only where they are of a nature to threaten the stability of the financial system or where the FSMA proposes to suspend or prohibit the entirety of the undertaking's activities. After the expiry of the ten-day period, the Bank shall be deemed not to have opposed the proposed measures.

The Bank shall give reasons for its decision to oppose the proposed measures, and shall notify the FSMA of those reasons by any convenient means. The Bank shall determine the period in which the proposed measures may not be implemented, without that period exceeding 30 days. The period may be extended with the consent of the FSMA.

Where the Bank and the FSMA do not reach agreement, the Bank shall inform the FSMA, before the end of the aforementioned period, that it is initiating arbitration proceedings as referred to in § 4.

Where the Bank does not avail itself of the possibility provided for in the second and the fourth paragraphs, or where the arbitration body decides that the measures proposed by the FSMA do not threaten financial stability, the FSMA may adopt the measures in question in application of § 2.

§ 4. The Bank shall initiate the arbitration proceedings by formally notifying the FSMA thereof. In its notification, the Bank shall indicate the person it has designated to sit on the arbitration body.

Within five working days of the receipt of the said notification, the FSMA shall inform the Bank, and the person designated by the Bank, of the person that it shall designate to sit on the arbitration body.

The two persons designated shall, within five working days, together select a third person to sit on the arbitration body. They shall inform the Bank and the FSMA of their selection.

The members of the arbitration body shall have the necessary knowledge and experience, both as regards prudential supervision and as regards the rules referred to in Article 45, § 1, first paragraph, 3° and § 2. They may not have a personal or proprietary interest in the undertaking in question.

They may not be members of the staff or of a governing body of the Bank or of the FSMA.

The Banks and the FSMA may, within two working days of receipt of the notification referred to in the third paragraph, object to a designated member of the arbitration body inasmuch as there are serious indications that the person in question does not meet the aforementioned requirements.

In such a case, a new member shall be designated within five working days using the aforementioned procedure.

The arbitration body shall make a decision within one month of the time when it was fully constituted.

The decisions of the arbitration body are binding and are not subject to appeal.

The costs of the arbitration proceedings are charged to the operating costs of the Bank and the FSMA in equal parts.

The methods, operation, remuneration of the members and the procedures of the arbitration body are determined in a protocol to this effect signed by the Bank and the FSMA.

Article 74 shall apply to the arbitrators in respect of the information they have received in the performance of their duties.

§ 5. The Bank may refuse to comply with the request by the FSMA, formulated in accordance with § 2, 3°, to revoke the authorization only where revocation may threaten the stability of the financial system. The Bank must give reasons for its decision not to accede to the FSMA's request, and notify the FSMA of these reasons within five days. The FSMA may appeal the Bank's decision to the Minister within fifteen days of its receipt. It shall inform the Bank accordingly. The Minister shall make a decision within a month of receipt of the dossier. He shall inform the FSMA and the Bank of his reasoned decision within eight days.]

Article inserted by Article 215 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 37

The penalties and fines imposed in application of Article 36, §§ 1 or 2, shall be recovered in favour of the Treasury by the Land Registrar, Public Records and Crown Lands Office.

[Art. 37bis

[The FSMA shall be responsible for the tasks entrusted to a competent authority referred to in Regulation (EC) No 1287/2006 and shall oversee compliance with that regulation. The provisions of this section, Article 41, 3°, as well as sections 6 and 7 of Chapter III shall apply mutatis mutandis.]

Article inserted by Article 27 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Article 37ter

The FSMA shall be responsible for the tasks entrusted to the competent authority in matters pertaining to Regulation (EU) No 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps and shall oversee

compliance with that Regulation and with the provisions laid down on the basis of, or for the implementation of this Regulation.

The notifications to be addressed to the FSMA pursuant to Articles 5 to 8 of the Regulation shall be made in the manner determined by the FSMA and shall be published on its website.

The FSMA may take the measures and exercise the powers that are specified in this Regulation, in particular in Articles 13.3, 14.2, 17, 18 to 23 and 37 as those of the competent authority. Where these measures or powers relate to government debt securities, the FSMA shall act on the basis of assent from the Minister in charge of Finance within that particular authority or from the Belgian Debt Agency (Agentschap van de Schuld/Agence de la Dette) or from the other public authorities competent for the government debt securities in question.

To perform this task, the FSMA may:

1° exercise the powers as referred to in Articles 34, § 1, 1°, a) and b), and 35 with regard to all natural or legal persons;

2° exercise the powers as referred to in Articles 79, 80, 81, 82, 1° and 2°, 83 and 84 in accordance with the methods provided for by these Articles.

Without prejudice to the fourth paragraph, the FSMA has the power to require in certain cases that the natural or legal person that enters into a credit default swap transaction provide:

1° an explanation of the purpose of the transaction and, more particularly, of the intention to cover risk or of the pursuit of another objective;

2° information confirming the underlying risk if the transaction is for the purpose of covering risk.

Articles 36 and 37 apply to infringements of obligations and prohibitions that arise from the aforementioned Regulation as well as to provisions based on it and its implementing provisions, as well as in cases of infringements of the measures taken by the FSMA by virtue of this aforementioned Regulation.]

Article inserted by Article 28 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 37quater

The FSMA shall be responsible for the tasks entrusted to the competent authority by Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies.]

Article inserted by Article 29 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Section 9

Criminal sanctions

Article 38

Those who execute transactions in financial instruments by abusing the weakness or ignorance of others, or for a price or under conditions that are clearly not proportionate to the real value of those instruments, shall be considered to be guilty of fraud and be punishable by the penalties stipulated in Article 496 of the Criminal Code.

Article 39

§ 1. A punishment of a prison term of between one month and two years and of a fine of between EUR 300 and EUR 10,000 shall be imposed on those who, by any fraudulent means, have executed or attempted to execute transactions, have placed or attempted to place orders, have disseminated or attempted to disseminate information or rumours that:

1° provide or could provide false or misleading information regarding the supply, the demand, or the price of a financial instrument;

2° influence or could influence, in an artificial or abnormal manner, activity on the market, the price of a financial instrument, the volume of transactions in a financial instrument, or the level of a market index.

§ 2. § 1 shall apply to the deeds referred to in the same paragraph:

1° that concern financial instruments admitted to trading on a Belgian regulated market or on any other market or alternative trading system as referred to in Article 15 and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or trading system has been applied for, irrespective of whether the deeds in question are carried out in Belgium or abroad [and irrespective of whether the transactions in question are carried out on the market concerned or outside it];

§ 2, 1° amended by Article 8, 1° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

2° that concern financial instruments admitted to trading on a foreign regulated market or on any other market or alternative trading system organized abroad and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or system has been applied for, insofar as the deeds in question are carried out in Belgium, irrespective of whether the transactions in question are carried out on the market concerned or outside it.

[3° that concern financial instruments that are not admitted to trading on the markets or alternative trading systems referred to in 1° or 2°, but the value of which depends on a financial instrument as referred to in 1° or 2° or that relate to an issuer of a financial instrument referred to in 1° or 2° or a company associated with this issuer.]

§ 2, 3° inserted by Article 30, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[§ 3 Those who supply or who have attempted to supply false or misleading information or data, or who have engaged in, or have attempted to engage in, any other equivalent act with the aim of intentionally manipulating a benchmark, shall be punished with imprisonment for one month to one year and with a fine of EUR 300 to EUR 10,000.

For the application of this paragraph, a "benchmark" shall be understood to mean: a commercial index or a published figure, calculated by applying a formula to the value of one or more underlying assets or prices, including estimates of prices, interest rates, or other values, or based on survey data and by reference to which the amount to be paid out for a financial instrument is determined.

This paragraph applies insofar as the deeds in question have been committed in or from the Belgian territory, irrespective of whether the benchmark is calculated in Belgium or abroad.]

§ 3 inserted by Article 30, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 40

§ 1. § 1. Persons who possess inside information:

1° by virtue of their membership of an administrative, management or supervisory body of the issuer of the financial instrument concerned, or of a company closely connected to the issuer; or

2° by virtue of their shareholding in the capital of the issuer; or

3° by virtue of their access to the information through their employment, profession or duties,

and who are aware or ought reasonably to be aware that the information in question is inside information:

are prohibited from using that information to acquire or dispose of, or to attempt to acquire or dispose of, for own account or on behalf of a third party, either directly or indirectly, the financial instruments which that information concerns [...].

§ 1 amended by Article 8, 2° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

The prohibitory provision laid down in the first paragraph shall also apply:

1° to any person possessing inside information as a result of his or her criminal activities;

2° in the case of a company or other legal person, to the natural persons who take part in the decision to execute a transaction or place an order for account of the legal person in question;

3° to investment firms, undertakings for investment in debt securities, and management companies of undertakings for collective investment, to members of the bodies of such firms,

undertakings and companies, and to members of their staff who possess inside information concerning a financial instrument held by the firm, undertaking, or company concerned.

§ 2. Persons subject to the prohibitions laid down in § 1 are prohibited from:

1° communicating inside information to third parties, except within the scope of the normal exercise of their employment, profession or duties;

2° based on inside information recommending that third parties acquire or dispose of, or inducing others to acquire or dispose of, the financial instruments to which that information refers [...].

§ 2, 2° amended by Article 8, 2° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

§ 3. The prohibitory provisions laid down in §§ 1 and 2 shall apply to any person, other than those referred to in the said sections, who possesses information that he or she is aware, or ought reasonably to be aware, constitutes inside information and that, directly or indirectly, comes from a person as referred to in §§ 1 or 2.

§ 4. The prohibitions laid down in §§ 1, 2 and 3 shall apply to the deeds referred to in the said sections:

1° that concern financial instruments admitted to trading on a Belgian regulated market or on any other market or alternative trading system as referred to in Article 15 and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or trading system has been applied for, irrespective of whether the deeds in question are carried out in Belgium or abroad [and irrespective of whether the transactions in question are executed on the market concerned or outside it];

§ 4, 1° amended by Article 8, 1° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005

2° that concern financial instruments admitted to trading on a foreign regulated market or on any other market or alternative trading system organized abroad and designated by the King upon the recommendation of the FSMA, or whose admission to trading on such a market or trading system has been applied for, insofar as the deeds in question are carried out in Belgium, irrespective of whether the transactions in question are executed on the market concerned or outside it.

[3° that concern financial instruments that are not admitted to trading on the markets or [alternative] trading systems [referred to in 1° or 2°] but the value of which is determined by a [financial instrument as referred to in 1° or 2°, or that relate to the issuer of a financial instrument as referred to in 1° or 2° or a company associated with this issuer].]

§ 4, 3° inserted by Article 8, 3° of the Royal Decree of 24 August 2005 - Belgian Official Gazette 9 September 2005 and amended by Article 31, 1° and 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 5. The prohibitory provisions laid down in §§ 1, 2 and 3 shall not apply to transactions executed within the scope of monetary, exchange-rate or government debt management policy by a Member State of the European Economic Area, by the European System of Central Banks, by the [Bank] or by any other central bank of the other Member States of the European Economic Area, by the Securities Regulation Fund (*Fonds des Rentes/Rentenfonds*), [...] by the Communities, the Regions, the Commission of the French Community, the provinces, the municipalities and agglomerations and federations of municipalities or by any person acting on behalf of one of the aforementioned persons.

§ 5 amended by Article 52 of the Law of 23 December 2005 - Belgian Official Gazette 31 December 2005, and by Article 198 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

§ 6. Punishment of a prison term of between three months and one year and of a fine of EUR 50 to EUR 10,000 shall be imposed on persons that infringe the provisions of §§ 1, 2 or 3.

Furthermore, the offender may be ordered to pay an amount corresponding to a maximum of triple the capital gain obtained, directly or indirectly, from the infringement. That amount shall be collected as a fine.

§ 7. The judicial authorities may require the FSMA to provide all information or documents deemed useful for the investigation or prosecution of an infringement of [Article 39 or] §§ 1, 2 or 3.

§ 7, 1st paragraph, amended by Article 31, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

At any point of the procedure, they may request the opinion of the FSMA. That opinion shall be provided within 45 days, except where this period is extended by the judicial authority making the request. The absence of that opinion within the said period, extended or not, shall not render the procedure invalid. A copy of the request for an opinion and a copy of the opinion received shall be added to the procedure dossier.

§ 8. Together with the other competent authorities of the European Economic Area, designated pursuant to [Article 11 of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)] the FSMA shall ensure the cooperation necessary for the completion of their tasks. To this end, the FSMA shall communicate all requested information to those authorities, including information regarding deeds that are prohibited under the law of the State of the authority submitting a request [...], even where those deeds are not prohibited under Belgian law.

§ 8, 1st paragraph, amended by Article 31, 4° and 5° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

The FSMA may exchange confidential information and conclude cooperation agreements with the competent authorities of third countries for the purposes of combating insider dealing, in order to ensure all cooperation necessary, in as effective a manner as possible, to complete its task, on the condition that those authorities be subject to professional secrecy equivalent to that referred to in Article 74.

Where a request for information is received by the FSMA from a foreign competent authority as referred to in the first and second paragraphs:

1° the judicial authorities questioned shall, at the request of the FSMA, gather all documents and information deemed useful for the preparation of the FSMA's response and communicate them to the FSMA, on the understanding that information and documents relating to legal proceedings may not be communicated without the express permission of the Procurator General or the Auditor General;

2° the Financial Information Processing Unit shall provide the FSMA, at the latter's specially reasoned request, all documents and information deemed useful for the preparation of the FSMA's response, with regard to the information provided to the Unit by the institutions and persons referred to in Article 2 and 2bis of the Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering, pursuant to Articles 12 to 15, § 1, of the same Law.

The FSMA may refuse to comply with a request for information where communication of that information could threaten Belgian sovereignty, security or public order. The competent Procurator General or the Auditor General of the Military Court and the FSMA may also refuse to comply with a request for information where legal proceedings have already been initiated in Belgium on the basis of the same facts and against the same persons, or where the latter have already had judgment passed on them in Belgium on the basis of the same facts.

Without prejudice to the obligations incumbent on the FSMA in legal proceedings of a criminal nature, the information received from the authorities as referred to in the first and second paragraphs may be used by the FSMA only for the purposes of its supervision of compliance with the present Article and within the scope of administrative or court proceedings relating to that supervision. However, where the authority that has provided information consents, the FSMA may use that information for other purposes or transfer it to the competent authorities of other States.

Article 41

The following shall be punishable by a prison term of one month to one year and by a fine of EUR 50 to EUR 10,000 or by one of these sentences only:

1° [...]

1° abrogated by Article 216 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

2° those who infringe provisions laid down in application of Articles 13, § 2, 15, 22 and 23, and designated by the King in the decrees in question;

3° those who hinder the FSMA's inspections and expert appraisals pursuant to the present Chapter or who knowingly provide the FSMA with inaccurate or incomplete information;

4° those who carry out the activities of a regulated market or market operator in Belgium without being recognized as such;

[5° those who disseminate information or rumours through the media, the internet or by any other means, which give or are likely to give false or misleading signals as to the situation - in particular the financial situation - of a credit institution, an insurance company, an investment firm, or a settlement institution or its equivalent, which could threaten its financial stability, while the person in question knew or ought to have known that the information was false or misleading.]

5° inserted by Article 11 of the Law of 2 June 2010 - Belgian Official Gazette 14 June 2010

Article 42

Infringements of Article 7, § 6 shall be punishable by the penalties laid down in Article 458 of the Criminal Code.

Article 43

The provisions of Book I of the Criminal Code shall, without exception of Chapter VII and Article 85, apply to infringements as referred to in Articles 38 to 42.

Section 10

International cooperation for combating market abuse

Art. 43bis

[...]

Article abrogated by Article 28 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

CHAPTER III

Financial Services and Markets Authority

Section 1

General provisions

Article 44

The FSMA is an independent body with legal personality located in the administrative district of Brussels-Capital.

Article 45

[§ 1. In accordance with this Law and the particular laws that apply, the FSMA is tasked with:

1° ensuring compliance with the rules aimed at protecting the interests of investors for transactions in financial instruments, and the rules aimed at guaranteeing the proper functioning, integrity and transparency of markets in financial instruments, more specifically the rules referred to in Chapter II;

2° conducting supervision of:

a. portfolio management and investment advice companies, management companies of undertakings for collective investment, and bureaux de change;

b. undertakings for collective investment;

c. such companies and operations as are referred to in the Law of 4 August 1992 on mortgage credit;

[d. ...]

d. abrogated by Article 32, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Entry into force on a date to be determined by the King, at the latest on 31 December 2015

e. insurance and reinsurance intermediaries as referred to in the Law of 27 March 1995 on insurance and reinsurance intermediation and on the distribution of insurance;

f. intermediaries in banking and investment services, as referred to in the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments;

g. institutions for occupational retirement provision as referred to in the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision;

g. [...]

g. abrogated by Article 302 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

3° supervising compliance by credit institutions, insurance companies, stockbroking firms, clearing institutions, settlement institutions and their equivalent with the following provisions, inasmuch as they apply to them:

a. Chapter II and its [implementing decrees and regulations];

Point a amended by Article 32, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

b. Law of 25 June 1992 on the non-marine insurance contract;

c. the Law of 27 March 1995 on insurance and reinsurance intermediation and on the distribution of insurance;

d. the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments;

e. Articles [...], 9, § 1, first paragraph, last sentence, 11, 3°, 6° and 8°, 19, § 1, 19bis, 19ter, 20, 21octies, § 1 and § 2, third paragraph, 28ter to 28decies, 64, § 2, 65, 76 and 77 of the Law of 9 July 1975 on the supervision of insurance companies and their implementing decrees;

Point e amended by Article 32, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

f. Article 14bis of the Law of 9 July 1975 on the supervision of insurance companies, Articles 20 and 20bis of the Law of 22 March 1993 on the legal status and supervision of credit institutions and Articles 62 and 62bis of the Law of 6 April 1995 on the legal status and supervision of investment firms, from the perspective of compliance with the rules intended to guarantee honest, fair and professional treatment of the interested parties;

g. Article 77bis of the Law of 6 April 1995 on the legal status and supervision of investment firms;

[h. Article 16, § 2 of the Law of 13 November 2011 on compensation for personal and moral injury arising from a technological accident;]

Point h inserted by Article 2 of the Law of 13 November 2011 - Belgian Official Gazette 24 February 2012

4° ensuring compliance with the provisions of:

a. Title II, Chapter I, Section 4, of the Programme Law (I) of 24 December 2002 on supplementary pensions for the self-employed;

b. the Law of 28 April 2003 on supplementary pensions and on the tax regime applicable to such pensions and to certain additional social security benefits;

5° contributing to compliance with the rules intended to protect [users of financial products or services and borrowers] against the illegal offer or provision of financial products or [services or of credits];

5° amended by Article 32, 4° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

6° contributing to the financial education of [users of financial products or services].

6° amended by Article 32, 5° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Upon the recommendation of the Bank and the FSMA, and in order notably to take into account the European legislation on the matter, the King may make a distinction, for the purposes of implementing the provisions referred to in the first paragraph, 3°, and for the supervision by the FSMA of compliance with the provisions by the institutions or persons referred to in the first paragraph, 2° or 3°, between professional and non-professional interested parties.

By way of derogation from points 3°, b, c, e and f of the first paragraph, supervision of mutual insurance companies as referred to in Articles 43bis, § 5 and 70, §§ 6, 7 and 8 of the Law of 6 August 1990 on mutual health funds and national unions of mutual health funds, as well as supervision of their transactions, falls within the competence of the Supervisor of mutual health funds and of national unions of mutual health funds.

§ 2. In order to promote the honest, fair and professional treatment of the interested parties, the King may, upon the recommendation of the FSMA and the Bank, and for the institutions or persons referred to in § 1, first paragraph, 2° and 3°, extend the rules referred to in § 1, first paragraph, 3°, with provisions that apply to:

- the information obligations of the interested parties;
- contractual obligations and conditions;
- the obligation to act in the best interests of the clients (duty of care);
- regulations regarding advantages linked to the services provided;
- provision of services via the internet;
- rules governing advertising;
- complaints handling;
- [transparency by way of the obligation to affix a label, or other, featuring the risks, prices], remuneration and costs;

§ 2, penultimate bullet point amended by Article 32, 6° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

- accessibility of the services provided;

He can, in particular, lay down different rules for professional and for non-professional interested parties or for certain categories of professional interested parties among themselves.

§ 3. For the purposes of this Article, "interested parties" means the clients and potential clients of the undertakings concerned, the policyholders, the insureds and the beneficiaries of the insurance policies entered into with the insurance companies.

§ 4. The provisions of Articles 36 and 37 apply if the rules contained in § 1, first paragraph 3°, f and g, or the obligations imposed pursuant to the second paragraph are not complied with.]

Article replaced by Article 217 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[§ 5. In the performance of its tasks, the FSMA, in its capacity as the competent prudential authority, shall take into account the convergence of supervisory instruments and practices when applying the legal and administrative provisions laid down in accordance with the applicable European directives.

To this end, it shall:

- a) participate in the activities of the European Banking Authority;
- b) follow the guidelines, recommendations, standards and other measures laid down by the European Banking Authority, and if it does not follow them, explain the reasons for this.

The FSMA, in its capacity as the competent prudential authority, shall, in the performance of its general tasks, duly take into consideration the possible impact that its decisions may have on the stability of the financial system of all other Member States concerned, in particular in the case of emergency, based on the information available at the time in question.]

§ 5 inserted by Article 27 of the Law of 28 July 2011 - Belgian Official Gazette 31 August 2011

[Art. 45bis

The FSMA and the Bank may agree terms of cooperation in areas which they shall determine.]

Article inserted by Article 218 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Article 45ter

Without prejudice to the exercise of its powers on the institutions and persons referred to in Article 45, § 1, first paragraph, 2° and 3°, the FSMA can ask external complaints-handling services, to provide, at least once a year, anonymized and combined data in the domains specified by the FSMA on the nature of the most frequent complaints and the follow-up to these complaints given by these services. The said external complaints-handling service shall follow-up these requests as necessary.]

Article inserted by Article 33 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 46

The FSMA shall have no competence in respect of fiscal matters.

The FSMA shall nevertheless notify the judicial authorities of any special mechanisms set up by [a company] falling within the scope of its supervision, the aim or result of which mechanisms is to promote fraud by third parties, where it is aware of the fact that those special mechanisms constitute a tax offence punishable by criminal sanctions for [the companies] themselves as author, co-author or accessory.

Section 2

Governing bodies

Article 47

The governing bodies of the FSMA shall be the Supervisory Board, [the Sanctions Committee,] the Management Committee, the [Chairman of the Management Committee] and the Secretary General.

*Amended by Article 162 of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007
and by Article 219 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011*

Article 48

[§ 1 The tasks of the Supervisory Board shall be as follows:

1° to exchange views on general issues relating to the competences assigned to the FSMA, the supervision of companies subject to its supervision, and developments pertaining to the supervision of Belgian, European and international financial markets;

2° to submit recommendations to the Management Committee on general priorities relating to the FSMA's supervision policy;

3° to submit recommendations to the Management Committee on all matters relating to the preparation and implementation of its policy and concerning the subject of any proposals in respect of the areas of supervision entrusted to the FSMA;

4° upon the proposal of the Management Committee and the Audit Committee referred to in the second paragraph, to approve the annual budget, the annual accounts and the part of the annual report pertaining to the Supervisory Board;

5° upon the proposal of the Management Committee, to submit to the King the general rules regarding the financing of the FSMA's activities, which shall be in the form of payment by the undertakings subject to the FSMA's supervision and fees received for the examination of dossiers concerning transactions or products subject to its supervision;

6° to submit a recommendation to the King prior to the appointments referred to in Articles 49, § 6, 50, § 2, and 51, § 3;

7° to conduct general supervision of the FSMA.

In order to carry out the supervisory task referred to in the first paragraph, 7°, the Board shall set up an Audit Committee from within its midst, to consist of three members chosen from among those who may not hold any shares - within the meaning of Article 13 of the Companies code - in a

company that is under the permanent supervision of the FSMA, nor may they hold any office at a company that is under the permanent supervision of the FSMA or at a professional association that represents companies under the supervision of the FSMA.

The Audit Committee shall take cognizance of the internal audit reports and of the measures to be taken by the Management Committee.

It shall communicate to the Chairman of the Management Committee any recommendations deemed useful.

It shall examine the budget and the financial statements in draft form, as drawn up by the Management Committee, before the Board approves them.

It shall report annually to the Board.

§ 2. The Board shall comprise ten to fourteen members, who may not be drawn from either the Management Committee or the FSMA staff. The members shall be appointed by the King for a renewable term of six years upon the joint proposal of the Minister responsible for Finances, the Minister responsible for Economic Affairs and the Minister responsible for Consumer Protection. During their term of office, the Chairman of the Supervisory Board and at least half of the other members are prohibited from having a shareholding – within the meaning of Article 13 of the Companies code – in a company subject to the permanent supervision of the FSMA, or from holding a role or an office in a company subject to the permanent supervision of the FSMA or in a professional association that represents companies subject to the supervision of the FSMA. Should the office of a member become vacant, for whatever reason, a replacement shall be appointed to serve for the remaining term of that office. If insufficient members have been reappointed for the Board to be validly constituted, the members shall continue to serve on the Board until it first meets in its new composition.

The Board shall have equal numbers of French-speaking and Dutch-speaking members.

During the five years prior to their appointment, the members of the Supervisory Board may neither have been members of a governing body of the FSMA other than the Supervisory Board nor of its staff.

§ 3. The Board shall meet whenever the Chairman of the Supervisory Board or four of its members deem necessary and at least four times a year. The Chairman of the Supervisory Board sets the agenda for the meetings. The Board can make decisions validly only if a majority of its members is present. Decisions shall be made based on a majority of votes cast. In the case of a tied vote, the Chairman of the Supervisory Board shall have the deciding vote.

§ 4. The sum of the attendance fee paid to the members and the Chairman of the Board is determined by the King.

§ 5. The Chairman of the Supervisory Board shall be elected from among and by the members of the Supervisory Board.]

Article replaced by Article 220 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Art. 48bis

§ 1. The Sanctions Committee shall make decisions regarding the imposition of administrative fines by the FSMA [...].

§ 1, 1st paragraph amended by Article 221, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

The Sanctions Committee shall consist of 10 members (*) designated by the King:

1° two State councillors or honorary State councillors designated upon the recommendation of the first President of the Council of State;

2° two councillors or honorary councillors at the Court of Cassation designated upon the recommendation of the first President of the Court of Cassation;

3° two magistrates who are not councillors at the Court of Cassation nor at the Brussels Court of Appeal.

4° four other members.

() At the time of the establishment of the Sanctions Committee referred to in Article 48bis of the same Law, the terms of office of one of the two members referred to in § 1, second paragraph, 1°, 2° and 3° of that Article and the terms of office of two of the four members referred to in § 1, second paragraph, 4° of that Article in accordance with Article 333 of the Royal Decree of 3 March 2011 implementing changes to the supervisory architecture for the financial sector shall be limited to three years. (Article 2 of the Royal Decree of 28 June 2011 - Belgian Official Gazette 5 July 2011)*

§ 2. The Chairman shall be chosen by the members of the Sanctions Committee from among the persons referred to in 1°, 2° and 3°.

Within the Sanctions Committee, sections may be set up consisting of five members, which will be chaired by one of the persons referred to in 1°, 2° and 3°.

§ 3. During the five years prior to their appointment, the members of the Sanctions Committee may neither have been members of a governing body of the FSMA other than the Supervisory Board, nor of its staff, nor of the Committee for Systemic Risks and System-relevant Financial Institutions (CREFS/CSRSFI).

During their term of office, members may [...] [not hold any] position or exercise any office in a company under the permanent supervision of the FSMA or of a professional association that represents companies under the supervision of the FSMA, nor may they offer services to a professional association that represents companies subject to the supervision of the FSMA. [...]

§ 3, 2nd paragraph amended by Article 221, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

The term of office of the members of the Sanctions Committee is six years, which is renewable. Failing renewal, the members shall continue to serve until the Sanctions Committee first meets in its new composition.

Should the office of a member of the Sanctions Committee fall vacant, for whatever reason, a replacement shall be appointed to serve the remaining term of that office.

Every three years, half of the Sanctions Committee shall be renewed based on rules determined by the King. The period of office begins as from the date of the first meeting of the Committee.

The Sanctions Committee, or one of its sections, can make decisions validly only if two of its members and its chairman are present. If its chairman cannot be present, it can make decisions validly if three of its members are present. The members of the Sanctions Committee may not deliberate on a matter in which they have a personal interest that might influence their opinion.

The amount of remuneration granted to the members of the Sanctions Committee is determined by the King based on the cases they have considered. He also determines the remuneration of the chairman of the Sanctions Committee.

The Sanctions Committee shall lay down in a set of internal rules the procedures [and the code of ethics] for handling the sanctions cases and shall submit these to the King for approval.]

§ 3, 8th paragraph amended by Article 221, 3° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article inserted by Article 8 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 49

§ 1. The Management Committee shall administer and manage the FSMA, and determine the stance of its policy. It shall appoint and dismiss members of staff and set their remuneration, as well as any other benefits. It can make decisions on all matters that are not expressly reserved by law to another body.

§ 2. The Management Committee shall establish the stance and general priorities as regards supervisory policy, draw up an annual action plan concerning supervision and determine the measures that may be taken in respect of each of the sectors subject to the FSMA's supervision.

§ 3. Upon the recommendation of the Supervisory Board, the Management Committee shall determine the regulations as referred to in Article 64. In circulars, recommendations or rules of conduct, the Management Committee shall lay down all measures to be taken with a view to clarifying the implementation of the legal or regulatory provisions that the FSMA supervises.

[...]

§ 3, 2nd paragraph abrogated by Article 34, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 4. The various authorities that exercise legal or regulatory power may request the opinion of the FSMA in respect of all draft legislative or regulatory acts relating to the supervisory tasks with which the FSMA is, or may be, tasked with.

§ 5. The Management Committee shall take cognizance of developments and general questions relating to economic, systemic or structural issues which may have an impact on the areas of competence of the FSMA, and of all questions relating to the application of legislation or regulations in the areas of competence of the FSMA.

§ 6. The Management Committee shall consist of the Chairman and three members.

The Management Committee shall have equal numbers of French-speaking and Dutch-speaking members.

The members of the Management Committee are appointed for a renewable term of six years by the King, upon the recommendation of the Supervisory Board, based on the joint proposal of the Minister responsible for Finance and the Minister responsible for Consumer Protection, and shall receive remuneration and a pension payable by the FSMA, the amounts of which are determined by the King.

Failing the renewal of their office, the members shall continue to serve until the Management Committee first meets in its new composition.

Should the office of a member fall vacant, for whatever reason, a replacement shall be appointed to serve the remaining term of that office.

The members of the Management Committee must be Belgian.

Upon the joint proposal of the Minister responsible for Finance, the Minister responsible for the Economy and the Minister responsible for Consumer Protection, and upon the recommendation of the Supervisory Board, the King appoints a Deputy Chairman of the Management Committee from among the members of the Management Committee, who belongs to the other language group than that of the Chairman of the Management Committee.

The Management Committee shall appoint a representative from within its midst or from the staff, who shall sit, in an advisory capacity, on the Management Committee and certain technical committees of the Industrial Accidents Fund (*Fonds des Accidents de Travail/Fonds voor Arbeidsongevallen*). Likewise, the Industrial Accidents Fund's Management Committee shall appoint a representative who shall attend one of the advisory committees referred to in Article 69 which are in charge of matters related to industrial accident insurance.

§ 7. The Management Committee shall meet each time the Chairman or two of its members deem necessary and at least twelve times per quarter.

The Management Committee can resolve validly only if half of its members are present. Decisions shall be made based on a majority of votes cast. In the case of a tied vote, the Chairman shall have the deciding vote.

Minutes shall be taken of the deliberations of the Management Committee. The minutes shall be signed by all members present.

§ 8. In urgent cases, the Management Committee may delegate to one or more of its members the power to decide in application of Article 7, § 3, of this Law, of Article 7 of the Royal Decree of 27 April 2007 on takeover bids, and of Article 7 of the Royal Decree of 27 April 2007 on squeeze-out bids.

Resolutions adopted on the basis of powers delegated in application of this paragraph shall be the subject of a notification to the Management Committee no later than at its next ordinary meeting.

§ 9. The Management Committee shall engage at least once a year in a public consultation regarding the quality of the information provided by all or some of the institutions and companies to which all or some of the rules concerning the protection of the interests of investors [and other users of financial products and services] referred to in Article 45, § 1, first paragraph, [1°, 2° or 3°] apply. Such a consultation shall take place in accordance with Article 64, second paragraph.]

*§ 9, 1st paragraph amended by Article 34, 2° and 3° of the Law of 30 July 2013 - Belgian Official Gazette
30 August 2013*

[With a view to drawing up its plan of action for exercising the task as referred to in Article 45, § 1, first paragraph, 6°, the Management Committee shall also engage in a public consultation that takes place pursuant to Article 64, second paragraph, or a more targeted consultation of the representatives of the main parties concerned.]

*§ 9, 2nd paragraph inserted by Article 34, 4° of the Law of 30 July 2013 - Belgian Official Gazette 30
August 2013*

*Article replaced by Article 222 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March
2011*

Article 50

§ 1. [The Chairman of the Management Committee is the head of the FSMA. He chairs the Management Committee. In case of absence he is replaced by the Deputy Chairman.]

*§ 1 replaced by Article 165, 1° of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May
2007*

§ 2. [The Chairman of the Management Committee is appointed by the King for a renewable term of six years, upon the recommendation of the Supervisory Board and upon the joint proposal of the Minister responsible for Finance, the Minister responsible for Economic Affairs, and the Minister responsible for consumer protection.]

*§ 2, 1st paragraph replaced by Article 223 of the Royal Decree of 3 March 2011 - Belgian Official Gazette
9 March 2011*

The remuneration and pension of the [Chairman of the Management Committee] are determined by the King.

§ 2, 2nd paragraph amended by Article 165, 2° of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007

[§ 3. The Chairman of the Management Committee shall coordinate the FSMA's cooperation with other government institutions and bodies, without prejudice to Chapter IV. He shall regularly report on such cooperation to the Management Committee.]

§ 3 inserted by Article 10 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 51

[§ 1. The Secretary General shall be responsible for the FSMA's overall administrative organization and the administrative management of the FSMA's services, in accordance with the rules laid down in the FSMA's internal regulations and under the collegial authority of the Management Committee.

§ 2. The Secretary General shall attend the meetings of the Management Committee in an advisory capacity. The Secretary General shall organize the Secretariat of the FSMA's governing bodies.

§ 3. The Secretary General is appointed by the King for a renewable term of six years, upon the recommendation of the Supervisory Board and upon the joint proposal of the Minister responsible for Finance, the Minister responsible for Economic Affairs and the Minister responsible for consumer protection. His status, remuneration and pension are determined by the King.

§ 4. The Management Committee shall place the necessary resources at the Secretary General's disposal, be it in respect of staff, delegated powers or material resources, for the performance of the tasks as referred to in the present Article.

§ 5. The investigations referred to in Article 70 will be conducted by the Secretary General.

For this purpose, he shall hold the title of investigation officer and exercise the powers conferred upon the FSMA.]

Article replaced by Article 224 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 52

[The term of office [of the members of the Supervisory Board, the Chairman, and the members of the Management Committee] as well as of the Secretary General shall come to an end when those persons reach the age of sixty-five.]

Article replaced by Article 12 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and amended by Article 225 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

Article 53

[Members of the Legislative Chambers, the European Parliament, the parliaments of the Communities and Regions, persons serving in the capacity of minister or secretary of state or member of a Community or Regional government, and members of the staff of a member of the Federal government or of a Community or Regional government may not undertake the duties of Chairman of the Management Committee, Secretary General, member of the Supervisory Board, member of the Sanctions Committee or member of the Management Committee of the FSMA. The latter terms of office come to an end *ipso jure* if the holder of the office is sworn in to one of the offices first mentioned, or performs the functions of such offices.

The Chairman of the Management Committee, the members of the Management Committee and the Secretary General may not hold any office, either personally or via a legal person, in a company that is under the permanent supervision of the FSMA, or the transactions of which are subject to the FSMA's supervision.

The prohibitory provisions laid down [in the second paragraph] shall remain in force for one year following the end of the term of office. During the said period, and as long as they do not hold any other full-time position, the Chairman, the members of the Management Committee and the Secretary General shall receive an annual remuneration equal to the annual remuneration they received during their term of office.

3rd paragraph amended by Article 35 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

The Supervisory Board may, upon the recommendation of the Management Committee, derogate from the prohibitory provision laid down for the defined period after the end of the term of office where it finds that the activity envisaged has no significant influence on the independence of the person in question.]

Article replaced by Article 226 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Section 3

Organization

Article 54

The services of the FSMA are grouped into departments as indicated on an organizational chart [determined by the Management Committee].

1st paragraph amended by Article 227 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[In particular, there is a service responsible for ensuring compliance with the rules of conduct referred to in Articles 26, 27, 28 and 28bis and in the provisions adopted in implementation of those Articles, as well as a department responsible for relations with [users of financial products or services, and borrowers] and, inter alia, for the provision of information to, and the protection of the interests of the [users of financial products or services, and borrowers].]

2nd paragraph inserted by Article 14 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and amended by Article 36, 1° and 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

The organizational chart provides for the institution of procedures and services – more particularly in respect of information and the protection of the interests of consumers – that are appropriate for dealing with the dossiers falling within the areas of responsibility conferred upon the FSMA pursuant to Article 45.

[...]

3rd to 5th paragraphs abrogated by Article 168 of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007

Article 55

The FSMA's staff may be recruited and employed under an employment contract governed by the Law of 3 July 1978 on employment contracts.

[...]

2nd paragraph abrogated by Article 228, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[The Management Committee shall determine the administrative and financial status of the public service staff.]

3rd paragraph replaced by Article 228, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

To this end, it shall make the provisions regarding the administrative and financial status that applied to those staff as at 31 December 2003, as well as later amendments thereto, applicable, where applicable, by making the changes that are indispensable to their implementation, and bearing in mind the provisions of the collective labour agreement that apply to all FSMA staff, insofar as these are not less advantageous than those provided for in their status.

The Management Committee shall inform the Minister of the provisions adopted; the Minister has a month at most to object.

The legal and regulatory provisions regarding the administrative and financial status that applied as at 31 December 2003, as well as later amendments thereto, remain applicable until the date of entry into force of the provisions laid down in accordance with the third paragraph.]

3rd to 6th paragraphs inserted by Article 3 of the Law of 14 February 2005 - Belgian Official Gazette 4 March 2005

Article 56

The FSMA's operating expenses shall be borne by the companies subject to its supervision or [whose transactions or products are subject to its supervision], within the limits and according to the specific rules determined by the King. [These expenses shall include the costs for opinions, expert appraisals and tasks that fall under the remit of the FSMA, as well as the costs for the various advisory committees established by law in the areas of responsibility of the FSMA.]

1st paragraph amended by Article 229, 1° and 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

The FSMA may charge the Land Registrar, Public Records and Crown Lands Office with the collection of unpaid remuneration.

[Credits, in whatever form, granted for the purchase of the building where the FSMA will establish its head office, are covered by state guarantee for the capital and the interest, including any interest payments for arrears.]

3rd paragraph amended by Article 14 of the Law of 19 November 2004 - Belgian Official Gazette 28 December 2004

Article 57

The FSMA shall keep its accounts and draw up annual accounts in accordance with the provisions of Chapter I of the Law of 17 July 1975 on accounting and the annual accounts of enterprises, in the same way as the public bodies referred to in Article 1, first paragraph, 3° of that Law [, without prejudice to any adjustments required by the specific nature of its activities, powers and status as determined by the King upon the recommendation of the FSMA.]

1st paragraph amended by Article 10 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

The FSMA's accounts shall be audited by one or more company auditors who shall be appointed by the Supervisory Board for a renewable term of three years, on condition that they not be included on the list of auditors accredited by the FSMA and not hold any office at a company subject to the FSMA's supervision.

The auditors shall verify and certify every element specified by the regulations on the financing of the FSMA's operating expenses, as referred to in Article 56 of this Law.

The task of these auditors in respect of the works council, as well as their nomination, their appointment, their reappointment, their dismissal and their resignation shall be governed by Articles 151 to 160 of the Companies code and by the provisions laid down in application of Article 164 of the said Code.

Article 58

The FSMA shall be treated as equivalent to the State in respect of the application of the taxes, levies, duties and fees of the State, provinces, municipalities and agglomerations.

Section 4

Operation

Article 59

[Upon the recommendation of the Management Committee, the Supervisory Board shall lay down the FSMA's internal regulations. These regulations shall contain the essential rules relating to the operation of the governing bodies.]

Article replaced by Article 230 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 60

In urgent cases, as determined by the Chairman, the Management Committee may, other than for the adoption of regulations [...], pass resolutions by written procedure or via a voice telecommunication system, in accordance with specific rules laid down in the internal regulations of the FSMA.

Amended by Article 169 of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007

Article 61

§ 1. With regard to third parties and in law, the FSMA shall be represented by the Chairman of the Management Committee and, in his absence, by the Deputy Chairman or by two members of the Management Committee acting jointly.

The Management Committee may delegate specific and limited powers of representation to one or more of its members, whether or not assisted by a member of staff of the FSMA. Such

delegations of power shall be published on the FSMA's website or in any other appropriate manner.

§ 2. Other than for the adoption of regulations, the Management Committee may, whether or not within the context of its handling of individual dossiers, delegate one of its members to make any decision in matters of lesser importance or that relate to matters of detail.

Any delegation of power may at any time be reviewed or revoked by the Management Committee. The FSMA's internal regulations specify the cases where power may be delegated and regulate the publicity that is required to be given to any such delegation of power.]

Article replaced by Article 231 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 62

The [Chairman of the Management Committee], the members of the Management Committee and the Secretary General may not deliberate on a matter in which they have a personal interest of a proprietary or family nature that might influence their judgement. The scope of this prohibition shall be specified in the internal regulations of the FSMA.

1st paragraph amended by Article 171, 1° of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007

The persons referred to in the preceding paragraph, as well as the members of the FSMA's staff, shall comply with the code of ethics laid down by the Supervisory Board upon the proposal of the Management Committee.

In consultation with the Supervisory Board, the [Chairman of the Management Committee] shall take the appropriate measures to ensure compliance with the obligations and prohibitions arising from the present Article.

3rd paragraph amended by Article 171, 2° of the Law of 27 April 2007 - Belgian Official Gazette 8 May 2007

Article 63

§ 1. In the instances stipulated by the law regulating the task in question, or by the King, the FSMA may give prior written consent with regard to the facts detailed by that law or by the King. The FSMA may make its consent dependent on the conditions that it deems appropriate.

§ 2. The consent referred to in § 1 shall bind the FSMA, except:

1° where it appears that the transactions to which it refers are incompletely or incorrectly described in the request for consent;

2° where those transactions are not performed in the manner presented to the FSMA;

3° where the effects of those transactions are modified by one or more subsequent transactions, with the result that the transactions to which the consent refers no longer concord with the definition given of them in the request for consent;

4° where applicable, where the conditions upon which the consent is dependent are not, or are no longer fulfilled.

§ 3. Upon the recommendation of the FSMA, the King determines the terms for application of the present Article.

Article 64

Within the areas of its competence, the FSMA may lay down regulations to supplement the relevant legal or regulatory provisions in respect of technical aspects. The regulations shall be laid down pursuant to Article 49, § 3.

[Without prejudice to any consultation provided for in other laws or regulations, the FSMA may, in accordance with the procedure of open consultation], explain, in a consultative memorandum, the content of any regulation it is considering adopting, and publish that memorandum on its website with a view to obtaining comments by those concerned.

2nd paragraph amended by Article 13 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

The regulations of the FSMA shall enter into force only after their approval by the King and their publication in the Moniteur belge/Belgisch Staatsblad (Belgian Official Gazette). The King may amend those regulations or act in place of the FSMA if the latter fails to lay down those regulations.

Article 65

Each year, the FSMA shall publish a report on its activities and submit it to the Presidents of the Chamber of Representatives and the Senate. [Without prejudice to the second paragraph, the Chairman of the FSMA, or, where applicable, the Management Committee of the FSMA, shall be heard each year by the competent committee of the House of Representatives (Kamer van volksvertegenwoordigers/Chambre des représentants) in the month following the publication of the report on the FSMA's activities.]

1st paragraph supplemented by Article 37, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

The Chairman of the FSMA [or, where applicable, the FSMA's Management Committee in its entirety] may be heard by the competent committees of the Chamber of Representatives and the Senate at the request of those bodies or on his/its own initiative.

2nd paragraph supplemented by Article 37, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 66

The FSMA shall create a website and keep it up to date. The website shall contain all regulations, proceedings and resolutions that are required to be published, as well as any other information that the FSMA deems appropriate to disseminate in the interest of its legal tasks.

Without prejudice to the means of publication prescribed by the appropriate legal or regulatory provisions, the FSMA shall specify other possible means of publishing the regulations, resolutions, opinions, reports and other proceedings it makes public.

Article 67

All notifications that the FSMA or the Minister are required to make by registered letter or recorded delivery in accordance with the laws and regulations whose application is supervised by the FSMA may be made by writ of execution or by any other method determined by the King.

Article 68

The FSMA shall perform its tasks exclusively in the public interest. The FSMA, the members of its governing bodies and the members of its staff shall not bear civil liability for their decisions, actions or conduct in performing the statutory tasks of the FSMA, except in the event of fraud or gross negligence.

Article 69

[The Management Committee may establish advisory committees and shall determine their tasks, composition and operation.]

1st paragraph replaced by Article 232 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

The opinions of the advisory committees shall be addressed to the FSMA. The Management Committee may publish them.

Section 5

[Procedural rules for imposing administrative fines]

Title replaced by Article 15 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 70(*)

§ 1. The investigation officer shall decide whether to open an investigation into facts that are liable to give rise to the imposition of an administrative fine. He/she shall inform the Chairman thereof. He/she shall designate one or more FSMA staff members to carry out the investigation.

§ 2. After the investigation is complete, an investigation report shall be drawn up that sets out the facts ascertained that may constitute an infringement liable to give rise to the imposition of

an administrative fine, or that may constitute a criminal offence. The investigation officer shall send a copy of the account of the facts to the parties concerned, who have a month in which to submit their observations. The investigation officer shall inform the Management Committee of the definitive report.]

() Article 70, § 1, does not apply to dossiers in which the Management Committee, under Article 70, § 1, of the version of this Law in force at that date, entrusted the investigation to the Secretary General prior to 15 July 2011.*

Article 70, § 2, first paragraph, in the version in force before 15 July 2011 (see below) continues to apply to the dossiers referred to above, insofar as it entrusts the investigation officer with the task of investigating both the charges and the defence.

[Article 70, § 2, first paragraph (version in force before 15 July 2011):

"The investigation officer shall investigate the charges and the defence, and shall submit his/her findings to the Sanctions Committee."]

The first and second sentences of Article 70, § 2, do not apply to the dossiers in which the investigation officer had already applied Article 71, § 1, as in force before 15 July 2011 (see below).

[Article 71, § 1, (version in force before 15 July 2011):

"§ 1. Upon completion of his/her investigation and before submitting his/her findings to the Sanctions Committee, the investigation officer shall notify the perpetrator or perpetrators of the practice in question of the existence of an investigation, specifying the nature of the practice under investigation, and shall summon them in order to permit them to present their comments."]

Article replaced by Article 16 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 71

§ 1. The Management Committee decides on the consequences of the investigation report.

§ 2. If the Management Committee decides to launch proceedings that may lead to the imposition of an administrative fine, it shall notify the interested parties of the charges and shall hand over the investigation report to them.

The Management Committee shall submit the notice of the charges to the chairman of the Sanctions Committee.

§ 3. The Management Committee may, before the charges are made known, accept an agreed settlement provided the interested parties have cooperated with the investigation and have given their prior consent to the agreed settlement. All agreed settlements are published on the FSMA's website. The publication may be made without mentioning the names of the parties. Sums paid in the context of agreed settlements shall be recovered in favour of the Treasury by the Land Registrar, Public Records and Crown Lands Office.

§ 4. If the Management Committee decides to close a dossier, it shall inform the interested parties of this decision. The Management Committee may make this decision public.

§ 5. In cases such as those referred to in paragraph 2, the Management Committee shall, where one of the charges mentioned in a notification may constitute a criminal offence, submit the said notification to the Crown Prosecutor. The Management Committee may decide to make this decision public.

Where the Crown Prosecutor decides to initiate criminal proceedings with regard to the facts referred to in the notification of the charges, he/she shall inform the FSMA forthwith. The Crown Prosecutor may provide the FSMA with a copy, automatically or upon the latter's request, of all documents relating to the proceedings with regard to the facts submitted by the FSMA.

It is not possible to lodge an appeal against the Management Committee's decision to notify the Crown Prosecutor of the charges or to make them public, or to accept an amicable settlement.

§ 6. The Management Committee may delegate the decision-making power referred to in this Article in whole or in part to a specialized committee that is made up of the Chairman and two of its members.]

Article replaced by Article 17 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 72

[§ 1. The persons who are notified of the charges against them have a maximum of two months to submit, in writing, their comments on the charges to the chairman of the Sanctions Committee. In exceptional circumstances, the chairman of the Sanctions Committee may extend this deadline.

§ 2. The persons in question may obtain a copy of the documents from the Sanctions Committee. They may request the assistance of a lawyer of their choice.

They may also object to the presence of a member of the Sanctions Committee if they have any doubts as to his or her impartiality.

§ 3. The Sanctions Committee may impose an administrative fine on the persons concerned after a fair hearing. The amount of the fine must be determined in accordance with the severity of the infringements committed and must be proportionate to any advantage or profit that may have been gained from those infringements.

The Sanctions Committee shall issue a reasoned decision. No sanction may be imposed without having heard the person concerned or his/her representative or, if they fail to appear, without having duly summoned them to appear. During the hearing, the Management Committee shall be represented by a person of its choice and may present its comments.

The decision of the Sanctions Committee shall be communicated to the persons concerned by registered letter. The letter of notification shall indicate the legal remedies and the competent authorities in order for cognizance to be taken of them, as well as the form and deadlines that must be adhered to, failing which the deadline for appeal shall not come into effect.

The Sanctions Committee shall make its decisions public on the FSMA's website mentioning the names of the parties, unless such publication seriously risks disrupting the financial markets or might cause disproportionate damage to the parties in question. In the latter case, the decision shall be published on the FSMA's website without mentioning the names of the parties. If an

appeal has been lodged against a sanction decision, the decision shall be published without mentioning the names of the parties, while awaiting the result of the court proceedings.

The decisions of the Sanctions Committee shall be communicated to the Chairman of the Management Committee, who shall inform the members of the latter Committee. In the event of an appeal against decisions by the Sanctions Committee, the FSMA shall be represented by the Chairman of the Management Committee and, in his absence, by the Deputy Chairman or by two members of the Management Committee acting jointly.]

Article replaced by Article 18 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

[The FSMA shall inform ESMA if it publishes a decision relating to a breach of Chapter II and shall provide ESMA with global information every year on the decisions made pertaining to this type of breach.]

§ 3, 6th paragraph, inserted by Article 38 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article 73

[Any administrative fine imposed on a person by the Sanctions Committee and that has become definitive, as well as any agreed settlement concluded before the criminal court judge has issued a definitive judgment in respect of the same or related facts, shall be imputed to the amount of any criminal fine that is imposed for those facts in respect of that same person.]

Article replaced by Article 19 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

[Section 5bis publication of penalties]

Section 5bis inserted by Article 39 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 73bis

Where a penalty imposed by the FSMA on the basis of this Law or other legal or regulatory provisions governing the tasks of the FSMA is incurred, the FSMA shall publish its decision to impose the penalty and the motives for this decision, with names, on its website, unless publishing this information risks seriously disrupting the financial markets or causing disproportionate detriment to the parties involved.]

Article inserted by Article 40 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Section 6

Professional secrecy, exchange of information and cooperation with other authorities

Article 74

The FSMA, the [Chairman of the Management Committee], the members of the Management Committee, [...], the members of the Supervisory Board, [the members of the Sanctions Committee], the Secretary General and the members of the FSMA's staff, as well as persons who have held those positions in the past, shall be bound by professional secrecy and may not divulge to any person or authority whatsoever confidential information revealed to them in the course of performing their tasks.

1st paragraph amended by Article 177 of the Programme Law of 27 April 2007 - Belgian Official Gazette 8 May 2007, by Article 20, 1° of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010, and by Article 232 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Notwithstanding the first paragraph, the FSMA may communicate confidential information:

1° where the communication of such information is stipulated or authorized by or pursuant to this Law and the laws regulating the tasks entrusted to the FSMA;

2° during testimony before the court in criminal cases;

3° to report criminal offences to the judicial authorities, provided that Article 29 of the Code of Criminal Procedure is not applied to the persons referred to in the first paragraph;

4° within the framework of administrative or judicial appeal proceedings against actions or decisions by the FSMA and in any other proceedings to which the FSMA is a party;

5° in summary or aggregate form, in order that individual natural or legal persons may not be identified.

[The FSMA may make public the decision to report criminal offences to the judicial authorities.]

3rd paragraph inserted by Article 20, 2° of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

Article 75

§ 1. By way of derogation from Article 74, first paragraph, the FSMA may communicate confidential information:

[1° to the European Central Bank, the Bank and the other central banks and institutions with a similar vocation as monetary authority, where this information is pertinent for exercising their respective statutory tasks, especially for conducting monetary policy and providing liquidity, exercising supervision of payments, clearing and settlement systems, and safeguarding the stability of the financial system, as well as to other public authorities tasked with the supervision of payment systems.

Where there is an emergency - in particular adverse developments on the financial markets - that could pose a threat to the liquidity of the market and the stability of the financial system in one

of the Member States in which the entities of a group comprising investment firms have been authorized to operate, or in which they have established subsidiaries of a significant size within the meaning of Article 95 §§ 5bis and 5ter, of the Law of 6 April 1995 on the legal status and supervision of investment firms, on intermediaries and investment advisers, the FSMA can forward information to the central banks within the European System of Central Banks where this information is pertinent to the exercise of their statutory tasks, in particular for conducting monetary policy and providing the corresponding liquidity, the supervision of payments, clearing and settlement systems, and safeguarding the stability of the financial system.

In the event of an emergency situation as described above, the FSMA can, in all the Member States concerned, communicate any information of interest to the central administration departments responsible for legislation on the supervision of credit institutions, financial institutions, investment services and insurance companies;]

§ 1, 1° replaced by Article 28 of the Law of 28 July 2011 - Belgian Official Gazette 31 August 2011

[1°bis to the Bank]

§ 1, 1° inserted by Article 41, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

2° to the *Fonds des Rentes/Rentenfonds*;

3° within the limits of European directives, to the competent authorities of other Member States of the European Economic Area that exercise one or more competences comparable to those referred to in Article 45;

4° in compliance with European directives, to the competent authorities of third countries that exercise one or more competences comparable to those referred to in Article 45 and with which the FSMA has concluded a cooperation agreement providing for the exchange of information;

5° [to the competent authorities of other Member States of the European Economic Area that exercise one or more competences comparable to those referred to in [Article 45], and to the competent authorities of third countries that exercise one or more competences comparable to those referred to in [Article 45] and with which the FSMA has concluded a cooperation agreement providing for the exchange of information;]

§ 1, 5° amended by Article 15, 1° of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and by Article 234, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

6° [to Belgian institutions or to institutions of other Member States of the European Economic Area that manage a protection scheme for deposits, investors or life insurance contracts];

§ 1, 6° replaced by Article 63 of the Law of 29 December 2010 - Belgian Official Gazette 31 December 2010

7° to institutions for the clearing or settlement of financial instruments that are authorized to provide services for transactions in financial instruments conducted on a Belgian organized market, insofar as the FSMA deems that communication of the information concerned is necessary for the orderly operation of those institutions to be protected against the shortcomings – or potential shortcomings – of participants on the market in question;

8° within the limits of European directives, to market operators for the orderly operation, monitoring and supervision of the markets that they organize;

9° during civil or commercial proceedings, to the authorities and legal representatives involved in bankruptcy or [judicial reorganization] or analogous collective proceedings concerning companies subject to FSMA supervision or whose operations are subject to FSMA supervision, with the exception of confidential information in respect of the participation of third parties in attempting to rescue the institution prior to such proceedings;

§ 1, 9° amended by Article 37 of the Royal Decree of 19 December 2010 - Belgian Official Gazette 24 January 2011

10° to statutory auditors, to company auditors and to other persons charged with the statutory examination of the accounts of undertakings subject to the supervision of the FSMA, of the accounts of other Belgian financial institutions or of the accounts of similar foreign companies;

11° to sequestrators for the exercise of their task as envisaged in the laws regulating the tasks entrusted to the FSMA;

12° to the authorities supervising the persons charged with the statutory examination of the annual accounts of companies subject to the supervision of the FSMA;

13° to the [Federal Public Service for the Economy (Federale Overheidsdienst Economie, K.M.O., Middenstand en Energie/Service public fédéral P.M.E., Classes Moyennes et Energie)] for the supervision of consumer credit [[and of market practices and payment services]], to the competent authorities of other Member States of the European Economic Area that have a comparable competence and to the competent authorities of third countries that have a comparable competence and with which the FSMA has entered into a Memorandum of Understanding providing for the sharing of information;

§ 1, 13° amended by Article 53, b) of the Law of 21 December 2009 - Belgian Official Gazette 19 January 2010 and amended by Article 41, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

14° [to the Belgian Competition Authority;]

§ 1, 14° amended by Article 114 of the Law of 20 July 2006 - Belgian Official Gazette 28 July 2006 and replaced by Article 41, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

15° within the limits of European directives, to the stockbroker approval board as referred to in Article 21;

16° within the limits of European directives, to the Treasury Administration, in accordance with the legal and regulatory provisions laid down for the implementation of measures in respect of financial embargoes.

[17° within the limits of European directives, to independent actuaries of all undertakings who, pursuant to the law, carry out an assignment whereby they supervise those undertakings, and to the bodies in charge of supervising these actuaries;

18° to the Industrial Accidents Fund:]

*§ 1, 17° and 18° inserted by Article 15, 2° of the Royal Decree of 25 March 2003 - Belgian Official Gazette
31 March 2003*

[19° to the Supervisor of mutual health funds and of national unions of mutual health funds (Office de Contrôle des mutualités et des unions nationales des mutualités/Controledienst voor de ziekenfondsen en de landsbonden van ziekenfondsen), in its capacity as supervisor of mutual health funds as referred to in Articles 43bis, § 5 and 70, §§ 6, 7 and 8, of the Law of 6 August 1990 on mutual health funds and national unions of mutual health funds as well as of their transactions.]

§ 1, 19° inserted by Article 53 of the Law of 26 April 2010 - Belgian Official Gazette 28 May 2010

[19° ...]

*§ 1, 19° inserted by Article 21 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010 and
abrogated by Article 234, 2° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March
2011*

[20° within the limits of the European directives, to the Debt Agency within the framework of the supervision of the market operators as referred to in Article 14, § 3, of this Law.]

*§ 1, 20° inserted by Article 234, 3° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9
March 2011*

[21° within the limits of European regulations and directives, to ESMA, EIOPA, the EBA and the European Systemic Risk Board.]

§ 1, 21° inserted by Article 41, 4° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. The FSMA may communicate confidential information pursuant to § 1 only on condition that the authorities or institutions to which the information is communicated use this information solely for the performance of their tasks and that, as regards the information in question, they are bound by an equivalent obligation of professional secrecy to that referred to in Article 74. Moreover, information received from an authority of another Member State of the European Economic Area may only be passed on with the explicit consent of the said authority in the cases referred to [in 7°, 9°, 10°, 12°, and 17° of § 1] as well as to the authorities or institutions of third countries in the cases referred to [in 4°, 5°, 6°, 10° and 13° of § 1], and, where applicable, only for the purposes for which the authority in question has given its consent.

§ 2 amended by Article 15, 3° of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

§ 3. The FSMA may use confidential information as referred to in Article 74, first paragraph, or confidential information it has received from the authorities and institutions referred to in § 1, in order to perform all its tasks as referred to in Article 45.

§ 4. Without prejudice to the more stringent provisions of the specific laws governing them, the Belgian authorities and institutions referred to in § 1 shall be bound by professional secrecy as referred to in Article 74 as regards the confidential information they receive from the FSMA in application of § 1.

Article 76

Article 74 shall apply to statutory auditors, to company auditors and to experts as regards the information of which they have become cognizant by virtue of the tasks of the FSMA or by virtue of the verifications, expert appraisals or reports that the FSMA, within the framework of its tasks as referred to in Article 45, has charged them with carrying out or producing.

The first paragraph and [Article 79] of the Law of 22 July 1953 establishing an Institut des réviseurs d'entreprises/Instituut der Bedrijfsrevisoren (Institute for company auditors) and organizing public supervision of this profession] shall not apply to the communication of information to the FSMA that is stipulated or authorized by the legal or regulatory provisions governing the tasks of the FSMA.

2nd paragraph amended by Article 103, § 4, of the Royal Decree of 21 April 2007 - Belgian Official Gazette 27 April 2007, and by Article 293 of the Law of 3 August 2012 - Belgian Official Gazette 19 October 2012

Article 77

[§ 1. Without prejudice to Articles 74 to 76 and to the provisions of specific laws, the FSMA shall cooperate with foreign competent authorities that have one or more competences comparable to those referred to in Article 45, as well as with ESMA, the EBA and EIOPA, within the boundaries of European regulations and directives. Where the FSMA enters into Memoranda of Understanding with other competent authorities, it shall inform ESMA, the EBA and EIOPA of the same, depending on the circumstances.

Where a competent authority from the European Economic Area fails to respond within a reasonable period of time to a request for information, co-operation, an investigation or on-site inspections, including a request for authorization for a member of the FSMA's staff to accompany a member of the said foreign authority, or where a competent authority from the European Economic Area rejects such a request, the FSMA can refer this rejection or failure to act to ESMA, the EBA or EIOPA, depending on the circumstances, in order that they can make use of the action provided for by Regulation (EU) No 1095/2010, 1093/2010 or 1094/2010 respectively.

The FSMA can, in particular, refer failures to act on - or rejections of - a request to ESMA that are based on Article 34, § 3, and Article 77bis with a view to the application of the legally-binding mediation provided for by Article 19 of Regulation (EU) No 1095/2010.]

§ 1 replaced by Article 42 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. Without prejudice to the obligations arising for Belgium from the law of the European Communities, the FSMA may, on the basis of reciprocity, conclude agreements with competent authorities, as referred to in § 1, with a view to establishing the terms of that cooperation, including the method of any distribution of supervisory tasks, the designation of a competent authority as supervision coordinator and the method of supervision through on-site inspections or otherwise, the cooperation procedures that shall apply, as well as the terms and conditions governing the collection and exchange of information.

[Within the scope of cooperation protocols entered into with the authorities referred to in § 1, the FSMA has the power to issue an exemption to the compliance of the legal or regulatory provision for the purposes of that referred to in Article 77bis § 1, b), provided that the conditions established are complied with, in particular with respect to the equal protection of investors.]

§ 2, 2nd paragraph inserted by Article 29, 1° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

§ 3. Without prejudice to the obligations arising for Belgium from the law of the European Communities, the FSMA may, in respect of the supervision exercised in accordance with the provisions of Chapter II, conclude agreements with competent authorities referred to in § 1 with a view particularly to:

1° agreeing minimum common criteria for the access of financial intermediaries, other than those referred to in Article 2, 10°, a), b), d), e) and g), to regulated activities and regulated financial markets;

2° determining a common approach with regard to the content, form and distribution of prospectuses or other information documents required for the admission of financial instruments to trading on regulated markets or for public offers to subscribe, sell, purchase or exchange financial instruments;

3° organizing the supervision of cross-border market abuse and of financial abuse committed via the Internet.

[§ 4. As part of its tasks as referred to in Article 77bis, § 1, b), the FSMA shall implement proportional cooperation protocols with the other authorities of regulated markets concerned, especially via proportional cooperation agreements, where the transactions of a regulated market that has installed facilities in another Member State have become significant within the meaning of Article 16 of Commission Regulation 1287/2006, for the operation of the securities market and the protection of investors, in the interest of the position of the securities market in the host Member State.]

§ 4 inserted by Article 29, 2° of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Art. 77bis

§ 1. Without prejudice to the relevant provisions of Section 7 of Chapter III of this Law, the following provisions apply:

a) in the context of combating market abuse, as regards the cooperation between the FSMA and other competent authorities as referred to in Article 11, first paragraph of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse);

b) in the context of the competences referred to in [Article 45], as regards the cooperation between the FSMA and the other competent authorities as referred to in Article 4, first paragraph, 22) of Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, and in Article 4, 4) of Directive 2006/48/EC of the European Parliament and the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions, with a view to complying with the obligations arising from the aforementioned Directive 2004/39/EC:

§ 1, b) amended by Article 235 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

1° Whenever this is necessary for performing its tasks, the FSMA shall cooperate with other competent authorities and exercise the competences it has been granted, whether by the aforementioned Directives, or by national legislation. The FSMA is competent, in particular, in the areas assigned to it by this Law. The FSMA shall provide assistance to the competent authorities of other Member States. It shall, in particular, exchange information with other competent authorities and work with them in investigative or supervisory activities, including in on-site inspections, even if the practices being investigated or verified do not violate a Belgian regulation.

2° The FSMA shall immediately provide all information that may be necessary for the purpose referred to in 1°. Therefore, the FSMA shall forthwith take all necessary measures, in addition to the appropriate organizational measures in view of rapid cooperation as referred to in 1°, to collect the information requested.

If the FSMA is not able, with regard to the areas of competence referred to in § 1, a), immediately to provide the information requested to a competent authority, it shall inform the said authority of the reasons for this.

In particular, where a request is made to the FSMA, with regard to the areas of competence referred to in § 1, b), to carry out an on-site inspection or an investigation, the FSMA shall comply with the request within its powers:

- by carrying out the inspection itself;

- by allowing the requesting authority or auditors or experts to carry out the inspection or investigation.

3° The information exchanged within the framework of this cooperation is covered by the obligation of professional secrecy laid down in Article 74. Where the FSMA provides information in the context of such cooperation, it may indicate that the information may only be divulged with its explicit consent or for the purposes for which it has given its consent. Thus when the FSMA, in turn, receives information, it must, by way of derogation from Article 75, comply with any restrictions that may be imposed upon it by the foreign authority with regard to the possibility of divulging that information.

[4° Where the FSMA is convinced that deeds are being, or have been, committed on the territory of another Member State that are contrary to the provisions of the aforementioned Directives, or that certain deeds are influencing financial instruments traded on a regulated market in another Member State, it shall give information that is as specific as possible to the competent authority of that other Member State and to ESMA. If the FSMA is notified by the competent authority of another Member State that similar deeds are being committed in Belgium, it shall take the necessary measures and inform the notifying authority and ESMA of the outcome of these measures as well as, where possible, of important interim developments. The authorities of the various Member States that are competent by virtue of Article 10 of the aforementioned Directive 2003/6/EC, shall consult each other on the proposed follow-up to their measures.]

§ 1, 4° replaced by Article 43, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. In implementing § 1, the FSMA may refuse to comply with a request for information, investigation, on-site inspection or supervision where:

- complying with such requests might adversely affect Belgium's sovereignty, security or public policy, or
- where legal proceedings have already been initiated in Belgium on the basis of the same facts and against the same persons, or
- where the said persons have already had definitive judgment passed on them in Belgium on the basis of the same facts.

[In the latter case, the FSMA shall inform the requesting competent authority and ESMA of this, providing information that is as detailed as possible regarding the proceedings or the judgment in question.]

§ 2, 2nd paragraph replaced by Article 43, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[§ 3. As regards the competences referred to in § 1, a),

1° without prejudice to Article 226 of the EC treaty, the FSMA may, if its request for information is not honoured within a reasonable period of time, or if its request is rejected, bring this fact to the attention of ESMA, in order that ESMA can make use of the action provided for by Regulation (EU) No 1095/2010;

2° without prejudice to its obligations in respect of criminal proceedings, the FSMA may only use the information that it has received from a competent authority to exercise supervision of compliance with Articles 25 and 25bis as well as in the context of related administrative and judicial procedures. However, where the competent authority that has provided the information so allows, the FSMA may use the information for other purposes, or pass it on to competent authorities of other Member States;

3° the FSMA can request that an investigation be carried out by the competent authority of another Member State on the territory of the said Member State. It can also request that members of its own staff be authorized to accompany the staff of the competent authority of that other Member State during the said investigation.

The competent authority of another Member State can request that an investigation be carried out in Belgium by the FSMA. It can also request that members of its own staff be authorized to accompany the staff of the FSMA during the investigation.

The said investigation shall, however, be carried out under the final responsibility of the Member State on whose territory it is carried out.

The FSMA may refuse to proceed to an investigation pursuant to a request made in accordance with the second paragraph where this investigation might adversely affect Belgium's sovereignty, security or public order, or where judicial proceedings have already been undertaken on the basis of the same facts and against the same persons in Belgium, or where a definitive judgment has already been passed in this respect in Belgium. In such a case, the FSMA shall inform ESMA and the requesting authority accordingly with information that is as detailed as possible on the proceedings or judgment concerned.

Without prejudice to the provisions of Article 226 of the EC Treaty, where its request to open an investigation or its request for members of its staff to be authorized to accompany those of the competent authority of another Member State, is not honoured within a reasonable period of time, or is rejected, the FSMA can bring this to the attention of ESMA with a view to enabling it to take the action provided for by Regulation (EU) No 1095/2010.]

§ 3 replaced by Article 43, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 4. As regards the competences referred to in § 1, b), the FSMA may, without prejudice to its obligations in respect of criminal proceedings, use the information that it receives from a competent authority only in order to carry out supervision of compliance with the conditions for authorization to carry out the activities of investment firms and credit institutions, as well as in order to facilitate supervision, on an individual or consolidated basis, of compliance with the conditions for carrying out such activities, in order to ensure the proper functioning of the trading system, in order to impose sanctions, in the context of administrative appeal proceedings or of a court appeal against a decision by the FSMA, and in the context of out-of-court mechanisms for treating investors' complaints. However, where the competent authority that has provided information consents, the FSMA may use that information for other purposes or pass it on to the competent authorities of other States.

§ 5. Paragraphs 1, 2 and 3, 2° and 3°, the first to the fourth paragraphs, also apply, on the conditions laid down in cooperation agreements, in the context of cooperation with authorities of third countries.]

Article inserted by Article 30 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007

[Art. 77ter

The Minister shall appoint the authority that is to serve as a contact point in order to request, in implementation of Article 77bis, § 1, b), an exchange of information or to receive requests for cooperation.

[The Minister shall inform the European Commission, ESMA and the other Member States of the European Economic Area of this.]]

Article inserted by Article 31 of the Royal Decree of 27 April 2007 - Belgian Official Gazette 31 May 2007 and 2nd paragraph replaced by Article 44 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 77quater

Without prejudice to Articles 74 to 76 and the provisions of special laws [the Bank and the FSMA shall draw up cooperation agreements with the Supervisor of mutual health funds and of national unions of mutual health funds] concerning the matter of supplementary health insurance offered by mutual insurance companies as referred to in Articles 43bis, § 5 and 70, §§ 6, 7 and 8 of the Law of 6 August 1990 on mutual health funds and national unions of mutual health funds. [The cooperation agreements shall govern] among other things the exchange of information and the consistent application of the relevant legislation.]

Article inserted by Article 54 of the Law of 26 April 2010 - Belgian Official Gazette 28 May 2010 and by Article 236, 1° and 2° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

Section 7

[Investigative powers, administrative fines and measures against the unlawful offer or illegal provision of financial products or services and criminal law provisions]

Title replaced by Article 45 of the Law of 30 July 2013, Belgian Official Gazette 30 August 2013

Article 78

Without prejudice to the powers of investigation conferred upon it by the legal and regulatory provisions governing its duties, the FSMA may, in order to verify whether a transaction or an activity is envisaged by the laws and regulations whose application it is responsible for supervising, demand all necessary information from those carrying out the transaction or activity in question and from all third parties permitting that transaction or activity to take place.

The FSMA shall have the same power of investigation in order to verify whether, within the framework of a cooperation agreement concluded with a foreign authority and in respect of the substantive points indicated in the written request from that authority, a transaction or activity carried out in Belgium is envisaged by the laws and regulations whose application that foreign authority is responsible for supervising.

[The FSMA can also request all information from any natural or legal person that is necessary for the purpose of exercising its task of supervision of the financial markets as referred to in Article 45, § 1, first paragraph, 1°, for the purpose of following developments in the supervision of the Belgian, European and international financial markets, and for the purpose of determining its supervisory policy lines on the subject.]

3rd paragraph inserted by Article 46, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[...]

4th paragraph abrogated by Article 46, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

The FSMA may verify or have verified in the books and documents of interested parties the accuracy of the information communicated to it.

[[...]]

6th paragraph inserted by Article 4 of the Law of 14 February 2005 - Belgian Official Gazette 4 March 2005 and abrogated by Article 46, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 78bis

Where this Law or other legal or regulatory provisions that govern the tasks of the FSMA confer the power to the FSMA of obtaining information or documents, the persons or undertakings concerned are obliged to provide the FSMA with the said information or documents by a deadline and in the form determined by the FSMA. Without prejudice to the application of special provisions in the legislation concerned, Articles 36 and 37 shall apply in the event of a breach of this obligation.]

Article inserted by Article 47 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 79

For the purposes referred to in Article 35, § 1, 1° and 2°, the FSMA has the power to summon and question any person in accordance with the following rules.

The summons for a hearing by the FSMA is issued by means of a regular notification, a registered postal letter or a writ.

Anyone who is summoned to appear pursuant to the first paragraph is required to appear.

When questioning persons, regardless of the capacity in which they are being questioned, the FSMA shall follow at a minimum the following rules:

1° the hearing shall begin by informing the person being questioned that:

a) he/she may ask that all questions put to him/her and all answers he/she gives be noted in the wording used;

b) he/she may request that a certain investigative action be carried out or a particular hearing be held;

c) his/her statements may be used as evidence before a court of law;

2° anyone who is questioned may make use of the documents he/she possesses, without the hearing having to be postponed as a result. He/she may, during the hearing or later, request that these documents be attached to the minutes of the hearing;

3° at the end of the hearing, the person conducting the hearing shall give the person being questioned the minutes to read, unless the latter should ask that it be read aloud to him/her. The person being questioned shall be asked if he/she wishes to make any corrections or additions to his/her statements;

4° if the person being questioned should wish to speak in a language other than that of the proceedings, his/her statements shall be noted in his/her language, or he/she will be asked to make a note of his/her own statements;

5° the person being questioned shall be informed that he/she may obtain a copy of the transcript of the hearing free of charge, and that this transcript can be handed over or sent to him/her immediately or within a month.]

Article inserted by Article 48 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

[...]

Title abrogated by Article 49 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

[Article 80

For the purposes referred to in Article 35, § 1, 1° and 2°, the investigation officer may, in the event of urgency and outside a private residence, with a reasoned decision, order a provisional seizure of monies, securities, titles or rights belonging to the person who is the subject of an investigation by the FSMA or by a competent authority within the meaning of Article 75, § 1, 3° or 4°, and the subject of which investigation constitutes an infringement, either because they have served for or are intended to be used for this infringement, or they represent a capital gain that is a direct result of this infringement or equivalent.

The measure referred to in the previous paragraph can be ordered for a period not exceeding 48 hours.

This deadline cannot be extended.

For the implementation of this order, the investigation officer and the employees designated by him/her, can request the assistance of the police.

A report shall be drawn up on the execution of the seizure with an inventory detailing all the assets seized.

As far as possible these are detailed individually.

The report shall be provided free-of-charge to the person whose assets have been seized or the third party involved, for signature.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 50 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 81

§ 1. For the purposes referred to in Article 35, § 1, 1° and 2°, the investigation officer, with a reasoned and written decision, can ask the operator of a telecommunications network or the provider of a telecommunications service to:

1° identify the subscriber or the habitual user of a telecommunications service;

2° pass on identification data relating to the telecommunications services to which a given person subscribes or which are habitually used by a given person.

The investigation officer must in each decision describe the facts that justify the measure, and must take into account the principles of proportionality and of subsidiarity when justifying this decision.

§ 2. The operator of a telecommunications network or the provider of a telecommunications service shall, upon receiving the request referred to in § 1, first paragraph, forthwith provide the investigation officer with an estimate of the cost of obtaining the information requested and the time that is necessary for collecting this information.

After receiving confirmation of the investigation officer's request, the operator and service provider referred to in the first paragraph shall provide the information requested by the deadline stipulated by the investigation officer.

§ 3. All persons who have knowledge of a request as referred to in § 1, or assists with it as a result of their employment, are bound to secrecy. Any violation of this secrecy shall be punishable in accordance with Article 458 of the Criminal Code.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 51 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 82

For the purposes referred to in Article 35, § 1, 1° and 2°, the investigation officer, with the prior consent of an examining magistrate can:

1° order a provisional seizure - except in a private residence - of monies, securities, titles or rights belonging to the person who is the subject of an investigation by the FSMA or by a competent authority within the meaning of Article 75, § 1, 3° or 4°, and the subject of which investigation constitutes an infringement, either because they have served for or are intended to be used for this infringement, or they represent a capital gain that is a direct result of this infringement or equivalent in accordance with the rules provided for in Article 83;

2° make a request for information on telecommunications call data, as well as the origin or destination of the telecommunication, in accordance with the rules established in Article 84;

3° order a temporary ban on professional activity, in accordance with the rules determined in Article 85.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 52 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 83

§ 1. For the purposes referred to in Article 82, 1°, and with the prior consent from an examining magistrate, the investigation officer, with a reasoned decision, can order a seizure of the assets referred to in Article 82, 1°.

The investigation officer must in each decision describe the factual circumstances that justify the measure, and must take account of the principles of proportionality and of subsidiarity when justifying this decision.

For the implementation of this order, the investigation officer and the employees designated by him/her, can request the assistance of the police.

The provisions of Article 80, [paragraphs 5 to 7], apply to this investigation.

§ 1, 4th paragraph amended by Article 48, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. The measure of seizure taken by the investigation officer terminates ipso jure, either on the expiry of the deadline referred to in Article 121, § 2, second paragraph, for appeal against the decision of the [Sanctions Committee], or the day following the judgment from the Court of Appeal in Brussels in application of Article 121, § 1, first paragraph, 4°.

§ 2, 1st paragraph amended by Article 48, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

By way of derogation from the first paragraph, the seizure shall expire with regard to the assets that are deemed to be a capital gain directly resulting from the infringement, or the equivalent thereof, in the decision of the [Sanctions Committee] or, where applicable, that of the Court of Appeal in Brussels, only when the fine that has been applied [...] has been paid in full.

§ 2, 2nd paragraph amended by Article 48, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 53 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 84

§ 1. For the purposes of that referred to in Article 82, 2°, and with the prior consent of an examining magistrate, the investigation officer who is of the opinion that there are circumstances that necessitate the tracing of telecommunications or the location of the origin or destination of telecommunications in order to bring the truth to light, if necessary by requesting the collaboration of the operator of a telecommunications network or the provider of a telecommunications service, can:

1° have the call data traced on telecommunication devices from which, or to which, calls have been made;

2° have the origin or destination of telecommunications identified.

In the cases referred to in paragraph 1, for each telecommunications device, the call data traced or the origin of the calls identified shall contain the date, the time, the duration, and if necessary, the location of the call in a report.

The investigation officer must in each decision describe the facts that justify the measure, and must take into account the principles of proportionality and of subsidiarity when justifying this decision.

§ 2. The operator of a telecommunications network or the provider of a telecommunications service shall, upon receiving the request referred to in § 1, forthwith provide the investigation officer with an estimate of the cost of obtaining the information requested and the time that is necessary for collecting this information.

After receiving confirmation of the investigation officer's request, the operator and service provider referred to in the first paragraph shall provide the information requested by the deadline stipulated by the investigation officer.

§ 3. All persons who have knowledge of a request as referred to in § 1, or assists with it as a result of their employment, are bound to secrecy. Any violation of this secrecy shall be punishable in accordance with Article 458 of the Criminal Code.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 54 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 85

§ 1. For the purposes referred to in Article 82, 3°, and with the prior consent of an examining magistrate, the investigation officer, with a reasoned decision, can order a temporary ban on any natural or legal persons on whom there is manifest evidence of guilt of an offence within the meaning of Articles 25, 26, 27, 39 and 40, from conducting business activities that represent a risk of a new offence arising relating to one of the provisions and that is specified further in the decision.

This ban may only be on the natural and legal persons and on the precisely detailed business activities that have been indicated in the decision of the investigation officer.

The investigation officer must in each decision describe the facts that justify the measure, and must take into account the principles of proportionality and of subsidiarity when justifying this decision.

The ban applies for a period of three months that may be extended once, following the same procedure.

The ban only commences once the decision has been notified to the person concerned by the investigation officer.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 55 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[Article 86

The provisions of Articles 36 and 37 are applicable in the event that the obligations or measures laid out pursuant to Articles 79 to 85 are not complied with.]

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 56 of the Law of 2 May 2011 – Belgian Official Gazette 12 June 2007

[Article 86bis

§ 1 Within the context of the supervision referred to in Article 45, § 1, 1st paragraph, 5°, the FSMA can impose an administrative fine not exceeding EUR 2,500,000 for the same deed or set of deeds to anyone who:

1° conducts the business or activity of an insurance company, reinsurance company, credit institution, investment firm, management company of an undertaking for collective investment, institution for occupational retirement provision, mortgage company, bureau de change, intermediary in insurance or reinsurance, intermediary in banking and investment services, independent portfolio management advisor or any other regulated activity referred to in Article 45, § 1, first paragraph, 2° or 3°, in or from the Belgian territory, without having been authorized or registered for this purpose in accordance with the applicable legal or regulatory provisions, or

after refusal of such an authorization or registration, or after such an authorization or registration has been withdrawn, cancelled, revoked or suspended;

2° does not comply with Article 137 or Article 139 of the Law of 6 April 1995 on the legal status and supervision of investment firms;

3° offers payment services in Belgium without satisfying the provisions of Articles 5, 39 and 46 of the Law of 21 December 2009 on the status of payment institutions, access to the activities of payment service providers and payment systems;

4° makes a public offer of securities in a Belgian undertaking for collective investment or of an undertaking for collective investment governed by foreign law, that is registered or authorized pursuant to the Law of 3 August 2012 on certain forms of collective management of investment portfolios, or where such a registration or authorization has been cancelled or revoked, or where a suspension or prohibition referred to in the same Law has been ignored;

5° does not comply with Article 68bis of the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets

If the same deeds or behaviour could lead to the imposition of a fine by the FSMA or the Bank, both pursuant to the first paragraph and to the legislation concerned, only the first paragraph may be applied.

§ 2. The FSMA can order the persons referred to in the first paragraph to cease the activity in question immediately or by a deadline set by the FSMA, or to comply with the provisions of the applicable legislation by a deadline set by the FSMA.

The FSMA may impose a fine of no more than EUR 50,000 per calendar day and of a total of no more than EUR 2,500,000, to all persons who, having had the opportunity to put forward their arguments, continue to fail to comply with a cease and desist order addressed to them pursuant to the first paragraph, on the deadline set by the FSMA,.

§ 3. Article 37 applies to fines and penalties imposed in application of the first and second paragraphs.

§ 4. If the FSMA identifies activities as referred to in the first paragraph, or has reasonable grounds to believe that such activities exist, the FSMA may publish a warning. In the interests of the users of financial products or services, the FSMA can also include herein the facts and circumstances that have led to the warning.

The FSMA can also re-publish warnings that foreign supervisory authorities publish on similar subjects.

§ 5. If the FSMA takes action pursuant to this Article against a person who exercises the business or activity of an institution for occupational retirement provision under the circumstances described in § 1, first paragraph, 1°, it can also inform the persons and organizations referred to in Article 149, § 2, of the Law of 27 October 2006 on the activities and supervision of institutions

for occupational retirement provision, of the decisions made pursuant to the previous paragraphs that it has the power or obligation to make public.]

Article inserted by Article 49 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 86ter

§ 1. Without prejudice to the jus commune right relating to public liability and notwithstanding any stipulation to the contrary that is disadvantageous to the investor, the depositor, or the insured, the judge shall declare null and void:

1° subscriptions to securities in Belgian or foreign public undertakings for collective investment where the undertaking for collective investment in question is not in possession of the authorization or registration provided for by the applicable law or regulations, or where it has refused such an authorization or registration, or where this authorization or registration has been withdrawn, cancelled, revoked or suspended;

2° subscriptions to securities in Belgian or foreign public undertakings for collective investment where the management company of the undertaking for collective investment concerned is not in possession of the authorization required by the applicable law or regulations, or where it has refused such an authorization or where this authorization has been withdrawn, cancelled, revoked or suspended;

3° any agreement entered into that contravenes Article 68bis of the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets;

4° any agreement relating to the offer or provision of investment services and activities where these agreements have been entered into while the service provider in question was not in possession of the authorization required by the applicable law or regulations or where it has refused such an authorization or where such an authorization has been withdrawn, cancelled, revoked or suspended;

5° any life insurance contract belonging to class 21, 23 or 26 entered into while the insurance company in question was not in possession of the authorization required by the applicable law or regulations, or where it has refused such an authorization, or where such an authorization has been withdrawn, cancelled, revoked or suspended, or after such an authorization has automatically expired;

6° any life insurance contract belonging to class 21, 23 or 26 entered into while the insurance or reinsurance intermediary in question was not in possession of the authorization required by the applicable law or regulations, or where it has refused such an authorization, or where such an authorization has been withdrawn, cancelled, revoked or suspended, or after such an authorization has automatically expired;

7° any agreement relating to the offer or provision of financial products or services entered into with the intervention of an intermediary in banking and investment services not in possession of

the authorization required by the applicable legal and regulatory provisions, or where this person has refused such an authorization or where such an authorization has been withdrawn, cancelled, revoked or suspended or where such an authorization has automatically expired.

Notwithstanding any stipulation to the contrary that is disadvantageous to the investor, depositor or insured and without prejudice to the third paragraph, any damage caused by purchasing or subscribing to the financial product concerned or by entering into the agreement concerned, shall be presumed to result from the infringement concerned as referred to in the first paragraph.

The presumption referred to in the previous paragraph can also be invoked with respect to a regulated undertaking operating in Belgium that has used an intermediary in banking and investment services or an insurance intermediary that is in one of the situations referred to in the first paragraph, 6° or 7°.

§ 2. Without prejudice to jus commune sanctions, the obligations of the borrower shall be limited ipso jure to the amount borrowed where the lender concerned was not registered in accordance with the applicable legal or regulatory provisions at the time the loan was granted or where the loan was granted after the lender had refused such a registration or after such a registration was withdrawn, cancelled, revoked or suspended.

The borrower shall maintain the advantages of the term and instalments.

§ 3. The provisions of the first and second paragraphs do not apply where the undertaking or person in question is in possession of the authorization, registration or permission required by the law of its home Member State and carries out its activities in Belgium through the establishment of a branch or under the free provision of services without fulfilling the formalities imposed to this effect by the applicable European directives.

§ 4. By way of a decree deliberated on in the Council of Ministers, the King extends the application of all or part of the present Article to infringements of provisions of decrees made pursuant to Articles 28ter, 30bis and 45, § 2, of the present Law if and to the extent that these provisions impose prior authorization of documents containing information intended for the users of financial products and services.]

Article inserted by Article 65 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article [87]

§ 1. The following shall be punishable by a prison term of one month to one year and by a fine of EUR 250 to EUR 2,500,000 or by one of these sentences only:

1° those who hinder the FSMA's investigations and expert appraisals pursuant to the present Chapter or who knowingly provide the FSMA with inaccurate or incomplete information;

2° those who knowingly, through declarations or otherwise, intimate or allow it to be believed that the transaction or transactions that they carry out or intend to carry out is/are conducted

under the conditions stipulated by the laws and regulations whose application is supervised by the FSMA, whereas those laws and regulations either do not apply to them or have not been complied with by them.

[3° those who do not obey an order imposed pursuant to Article 36 or Article 86bis.]

§ 1, 3° inserted by Article 50, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[4° those who do not comply with the instructions contained in a court order or judgment issued following a cease and desist order based on Article 125.]

§ 1, 4° inserted by Article 50, 1° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. Infringements of Articles 74, 75, § 4, and 76, first paragraph, shall be punishable by the penalties laid down in Article 458 of the Criminal Code.

[§ 2bis. Any use by the party subject to an investigation by the investigation officer as referred to in Article 70, of the information received on the investigation or the data that form the subject of the investigation, with the intention and effect of hindering the progress of the investigation or of jeopardizing the private life, the physical or moral integrity or the assets of a person cited in the dossier, shall be punished with the penalties provided for in Article 460ter of the Criminal Code.

Any other person asked to collaborate or who collaborates in an investigation by the investigation officer as referred to in Article 70, is obliged to secrecy. Any breach of secrecy shall be punishable with the penalties provided for by Article 458 of the Criminal Code.]

§ 2bis inserted by Article 50, 2° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 3. The provisions of Book I of the Criminal Code, without the exception of Chapter VII and Article 85, shall be applicable to the infringements referred to in [§§ 1, 2 and 2bis].

§ 3 amended by Article 50, 3° of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Article abrogated by Article 17 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and restored by Article 48 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007

[§ 4. Where the facts submitted to the courts are the object of a cease and desist order pursuant to Article 125, criminal proceedings may only be ruled upon after a decision passed for the cease and desist order has acquired the force of res judicata.]

§ 4 inserted by Article 3 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[Section 8

Compliance officers]

[Art. 87bis

§ 1. Investment firms, management companies of undertakings for collective investment, [undertakings for collective investment which have not designated a management company of undertakings for collective investment within the meaning of Article 44 of the Law of 3 August 2012.] credit institutions and insurance companies governed by Belgian law and the branches of such institutions established in Belgium governed by the laws of third countries, shall appoint compliance officers of good repute and with the requisite knowledge and experience with a view to ensuring compliance with the rules referred to in Article 45, § 1, first paragraph, 3°, and § 2, [as well as Articles 82, 83, 218, 219, 220, and 224, 1° and 3° of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios and, from the perspective of compliance with rules for ensuring honest, fair and professional treatment of interested parties, Articles 41 and 201 of the same Law];

§ 1, 1st paragraph amended by Article 294, 1° and 2° of the Law of 3 August 2012- Belgian Official Gazette 19 October 2012

These compliance officers shall carry out the following tasks under the responsibility of the senior management:

a) supervision and evaluation of the adequacy and efficiency of the policies, the procedures and the measures intended for guaranteeing the compliance by the company involved and the persons concerned, with the rules referred to in Article 45, § 1, first paragraph, 3°, and § 2 [and Articles 82, 83, 218, 219, 220, and 224, 1° and 3°, of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios and, from the perspective of compliance with rules for ensuring honest, fair and professional treatment of interested parties, Articles 41 and 201 of the same Law];

§ 1, 2nd paragraph, a) supplemented by Article 294, 3° of the Law of 3 August 2012- Belgian Official Gazette 19 October 2012

b) advising and assisting the relevant persons in order that these can comply with their aforementioned obligations.

The companies concerned shall inform the FSMA forthwith on any appointment made in accordance with the first paragraph as well as on any modifications made to the role of a compliance officer.

§ 2. Compliance officers who are entrusted with the tasks referred to in § 1 in the companies in question, must be approved by the FSMA. The companies concerned shall submit a request for approval for this purpose to the FSMA.

By means of a regulation pursuant to Article 64, the FSMA shall determine:

- the requirements with regard to knowledge, experience, training and professional integrity;

- the procedure for approval

The FSMA shall publish a list on its website of compliance officers who are approved with the companies concerned.

§ 3. In the event that a compliance officer no longer satisfies the conditions for approval, the FSMA can revoke the approval with a reasoned decision and after having heard the person in question.

The FSMA can decide to make this revocation public by publishing this information on its website.

§ 4. [The provisions of Articles 36 and 37 shall apply in the event that the obligations laid down in this Article are not complied with.]

Article inserted by Article 238 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[§ 5. By derogation from 1, third paragraph, 2, first and third paragraph, 3 and 4, the application and supervision of compliance with the present Article by mutual health funds as referred to in Article 43bis § 5, and 70, §§ 6, 7 and 8, of the Law of 6 August 1990 on mutual health funds and the national unions of mutual health funds shall come under the competences of the supervisor of mutual health funds and of national unions of mutual health funds (Office de contrôle des mutualités et des unions nationales de mutualités/Controledienst voor de ziekenfondsen en de landsbonden van ziekenfondsen).

For the exercise of these competences, the supervisor of mutual health funds and of national unions of mutual health funds shall apply the provisions of the Regulation established by the FSMA in application of § 2, second paragraph. The provisions of this Regulation that apply to mutual health funds shall be taken following advice from the supervisor of mutual health funds and of national unions of mutual health funds. Where the supervisor of mutual health funds and of national unions of mutual health funds applies the provisions of this Regulation, "supervisor of mutual health funds and of national unions of mutual health funds" must be read in the place of "the FSMA".]

§ 5 inserted by Article 51 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Section 9

Assistance by auditors]

Section 9 inserted by Article 239 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Art. 87 *ter*

§ 1. In the exercise of the tasks conferred upon the FSMA in Article 45, the FSMA may instruct a report to be drawn up by an accredited auditor on the areas under its competence regarding:

- the adequacy of the organization of the companies and persons referred to in Article 45, § 1, 2° and 3°, in light of the rules referred to in Article 45, § 1, first paragraph, 3°, and § 2;
- the compliance by the companies and persons involved with the rules referred to in Article 45, § 1, first paragraph, 3°, and § 2.

The accredited auditor has the following powers therefor:

- a) to request to have forwarded to him/her any information or document, in any form whatsoever, including those regarding the relationship between a company and a specific client;
- b) to undertake on-site investigations and expert appraisals, take cognizance of and copy, on the spot, any document, data file and recording, and gain access to any IT system;

[...]

§ 1, 3rd paragraph, abrogated by Article 52 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

§ 2. The FSMA shall lay down the rules in the form of a regulation, pursuant to Article 64, governing the accreditation of and cooperation with the auditors.

The regulation on approvals shall be drawn up after consulting the accredited auditors, represented by their professional organization.

The Institut des réviseurs d'entreprises/Instituut der Bedrijfsrevisoren [Institute of company auditors] shall inform the FSMA whenever disciplinary proceedings are implemented against an accredited auditor as a result of shortcomings in the exercise of his/her task with a company as well as disciplinary measures taken against an accredited auditor, including details of the reasons.

The FSMA can revoke the accreditation of the auditor concerned with a reasoned decision relating to his/her status or task as accredited auditor as determined by or pursuant to this law. The task of the accredited auditor ends with this revocation.]

Article inserted by Article 240 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Section 10

Reporting [and access to the websites]]

title amended by Article 53 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Section 10 inserted by Article 241 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Article 87^{quater}

[§ 1.] The FSMA may lay down rules regarding the institutions referred to in Article 45, § 1, first paragraph, 2° and 3° by way of a regulation in accordance with Article 64, with regard to the periodic reporting to the FSMA on the activities and services under its supervision. The FSMA may make a distinction in this regard between categories of institutions.

§ 1, 1st paragraph, amended by Article 54 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

Such regulations shall be adopted after consultation with the institutions concerned, represented by their professional associations.]

Article inserted by Article 242 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2013

[§ 2. The undertakings referred to in Article 45, § 1, first paragraph, 2° and 3°, shall provide the FSMA with permanent access to the parts of their website reserved especially for their clients without providing herewith access to the individual details of their clients, within ten bank working days following its request.]

§ 2 inserted by Article 54 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[§ 3. The provisions of Articles 36 and 37 apply where the obligations provided by or pursuant to the present Article are not complied with.]

§ 3 inserted by Article 55 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Section 11
Mystery shopping]

Section 11 inserted by Article 55 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[Article 87^{quinquies}

To exercise its supervision of compliance with the rules referred to in Article 45, § 1, first paragraph, 3°, and § 2, the FSMA can task its staff or third parties appointed by the FSMA to approach the companies and persons referred to in Article 45, § 1, first paragraph, 2° and 3°, and their senior management and staff, independent agents acting on their behalf and the said agents' staff, by posing as clients or potential clients, without needing to reveal the fact that they are staff of the FSMA or third parties appointed by the FSMA and without needing to reveal that the information obtained during this visit may be used by the FSMA in the exercise of its supervision.

Within the scope of the task entrusted to it in Article 45, § 1, first paragraph, 5°, the FSMA may also exercise the power referred to in the first paragraph vis-à-vis persons who carry out the transactions or exercise the activities in question, or persons who are thought to carry out these transactions or these activities, and their colleagues.

Upon the recommendation of the FSMA, the King may extend the powers of the FSMA arising from the first paragraph to the supervision of compliance with the other rules that He indicates to this effect insofar as these rules must be observed in direct relations with clients or potential clients and insofar as the FSMA supervises compliance with the said rules.]

Article inserted by Article 56 of the Law of 30 July 2013 - Belgian Official Gazette 30 August 2013

[CHAPTER IV

[Articles 88 to 106...]]

*Chapter IV inserted by Article 22 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010
and abrogated by Article 243 of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011*

[CHAPTER [IV]

[Articles 117 to 119...]

*Chapter IV renumbered by Article 49 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007
and abrogated by Article 23 of the Law of 2 July 2010 – Belgian Official Gazette 28 September 2010*

[CHAPTER [V]

Legal remedies against decisions made by the Minister, by the FSMA and by market operators,
[, intervention of the FSMA before the criminal courts and cease and desist orders]]

title amended by Article 4 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

*Chapter inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 4 September 2002
and renumbered by Article 49 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007*

[Article 120

§ 1. Undertakings requesting recognition or continuance as a Belgian regulated market, as well as the FSMA, may lodge an appeal with the Court of Appeal at Brussels against decisions made by the Minister pursuant to Article 3, §§ 1 and 3.

In addition, applicants for, or holders of an authorization, as well as the FSMA, may lodge an appeal with the Court of Appeal at Brussels against decisions in respect of authorization or the withdrawal of an authorization made by the Minister pursuant to Articles 16 to 18 or where the Minister has made no pronouncement within the term laid down pursuant to Article 18.

§ 2. Under penalty of dissolution, the appeal as referred to in § 1 shall be lodged within 30 days of the notification of the decision or after expiry of the term laid down.

§ 3. Under penalty of inadmissibility, pronounced automatically, the appeal as referred to in § 1 shall be lodged by signed petition delivered to the Registrar of the Court of Appeal at Brussels in as many copies as there are parties.

Under penalty of inadmissibility, the petition shall contain:

1° the date, month and year;

2° if the petitioner is a natural person, his or her surname, first names and address; if the petitioner is a legal person, its name, legal form, registered office and the body that represents it;

3° mention of the decision that is the subject of the appeal;

4° statement of the arguments;

5° indication of the place, date and time of the court appearance fixed by the Registrar of the Court of Appeal;

6° the inventory of the supporting documents lodged, together with the petition lodged with the Registrar.

Notification of the petition shall be given by the Registrar of the Court of Appeal at Brussels to all parties summoned in the case by the applicant.

The Court of Appeal at Brussels may at any time officially summon to appear in the case all other persons who risk to be affected by the ruling on the appeal.

The Court of Appeal shall determine the term within which the parties are required to exchange their written comments and to lodge a copy of those comments with the Registrar. The Court of Appeal shall likewise determine the date of the hearings.

The parties may each lodge their written comments with the Registrar of the Court of Appeal at Brussels and consult the dossier on site. The Court of Appeal at Brussels shall determine the term within which the comments are required to be produced. The Registrar shall notify the parties of them.

§ 4. Within five days after registration of the petition, the Registrar of the Court of Appeal at Brussels shall request the secretariat of the Minister to forward the procedure dossier. The dossier shall be forwarded within five days after receipt of the request.

§ 5. The Court of Appeal at Brussels shall rule on the matter within 60 days after the lodging of the petition as referred to in § 3, except in duly reasoned circumstances.

§ 6. The appeal as referred to in § 1 shall not serve to suspend the decision. However, where such an appeal is lodged, the Court of Appeal at Brussels may, before ruling, order that execution of the Minister's decision be suspended, should the petitioner invoke serious arguments to warrant review of the decision and should the immediate execution of the decision threaten to cause serious prejudice difficult to redress. The Court of Appeal shall rule forthwith on the request for suspension.]

Article inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 4 September 2002

[Article 121

§ 1. An appeal may be lodged with the Court of Appeal at Brussels against a decision by the FSMA in the following cases:

[1° any decision, subject to appeal, made in application of the provisions of the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on a regulated market, and its implementing decrees;]

§ 1, 1° replaced by Article 3, 1° of the Law of 1 April 2007 - Belgian Official Gazette 26 April 2007

[2° any decision, subject to appeal, made in application of the Law of 1 April 2007 on takeover bids, and its implementing decrees;]

§ 1, 2° replaced by Article 3, 2° of the Law of 1 April 2007 - Belgian Official Gazette 26 April 2007

[3° any decision made in application of Article 10 of this Law and of the implementing decrees thereof, and any decision made in application of Article 34, § 2, of this Law or in application of Article 23, § 2, 7° and 8° of the Law of 2 May 2007 on disclosure of major shareholdings;]

§ 1, 3° replaced by Article 4, 1° of the Law of 23 May 2007 - Belgian Official Gazette 12 June 2007

4° any decision that imposes a penalty or an administrative fine and that is made in application of Article 36, § 1, second paragraph, 2°, or § 2 of this Law, [Articles 36, § 4 or 37 of the Law of 1 April 2007 on takeover bids]; Article 22 of the Law of 11 January 1993 on preventing use of the financial system for purposes of money laundering, [Article 58^{quater}, § 2, of the Programme Law (I) of 24 December 2002], Article 109, § 1, second paragraph or § 2 of the Law of 6 April 1995 on secondary markets, the status and supervision of investment firms, intermediaries, and advisers, [Article 82, § 1, first paragraph of the Law of 9 July 1975 on the supervision of insurance companies], [Article 49^{quater}, § 2, of the Law of 28 April 2003 on supplementary pensions and on tax regulations applicable to such pensions and to certain additional social security benefits], [Article 15bis or Article 16, § 1, of the Law of 27 March 1995 on insurance and reinsurance intermediation and on the distribution of insurance], [Articles 110, 115, 151, 155, § 1, third paragraph, 157, second paragraph, 165 § 1, first paragraph, 166, § 1, third paragraph and § 3, and 255 of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios], [Article 22, § 1, or Article 23, § 1, of the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments, [...] as well as the application of any other legal provision conferring on the FSMA the power to impose a penalty or an administrative fine;

§ 1, 4° amended by Article 20 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003, by Article 3 of the Law of 22 July 2004 - Belgian Official Gazette 9 March 2005, by Article 3 of the Law of 22 February 2006 - Belgian Official Gazette 15 March 2006, by Article 3, 3° of the Law of 1 April 2007 - Belgian Official Gazette 26 April 2007, by Article 2 of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009, by Article 2 of the Law of 22 December 2009 - Belgian Official Gazette 19 January 2010, and by Article 244, 1°, 2° and 3° of the Royal Decree of 3 March 2011 - Belgian Official

Gazette 9 March 2011, and by Article 226, § 3, 1° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012

[5° any decision subject to appeal and that is taken in application [of Articles 68, 69, second paragraph, 155, § 1, third paragraph, 165 § 1, first paragraph, and 166 of the Law of 3 August 2012 relating to certain forms of collective management of investment portfolios;]

§ 1, 5° inserted by Article 4 of the Law of 22 July 2004 - Belgian Official Gazette 9 March 2005, and amended by Article 226, § 3, 2° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012

[6° any decision taken in application of Article 82, 1° and 3° of this Law.]

§ 1, 6° inserted by Article 4, 2° of the Law of 23 May 2007 - Belgian Official Gazette 12 June 2007

Where the FSMA is required to rule and no decision is forthcoming after a term of 45 days, commencing from the time of the request for a ruling submitted to it by an interested party, the silence of the FSMA shall be deemed a decision of rejection against which an appeal may be lodged. The present provision shall be without prejudice to the special provisions that lay down a different term or that attach other consequences to the silence of the FSMA.

§ 2. Without prejudice to stricter special provisions laid down by or pursuant to the law, appeal may be lodged, as referred to in § 1, by the parties involved in the proceedings before the FSMA, as well as by any persons able to demonstrate that they have an interest.

Without prejudice to the special provisions laid down by or pursuant to the law, the term for appeal shall, under penalty of extinction, be 15 days for the appeal as referred to in § 1, 1° to 3°. For the appeal as referred to in § 1, 4°, the term shall be 30 days.

For persons who have received notification of the decision in dispute, the term for lodging an appeal shall commence from notification of that decision; for all other interested persons, it shall commence on the date when the decision was published or made known to them. Where the FSMA has given no ruling within the period laid down by or pursuant to the law, the term for lodging an appeal shall commence upon expiry of that period.

[...]

§ 2, 4th paragraph abrogated by Article 24 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010

[...]

§ 2, 5th paragraph inserted by Article 4, 3° of the Law of 23 May 2007 - Belgian Official Gazette 12 June 2007 and abrogated by Article 24 of the Law of 2 July 2010 – Belgian Official Gazette 28 September 2010

§ 3. Article 120, § 3, shall apply to the appeal as referred to in § 1.

§ 4. The Registrar of the Court of Appeal at Brussels shall, within five days after registration of the petition, request the FSMA to forward the procedure dossier. The dossier shall be forwarded within five days of receipt of the request.

§ 5. Except in duly reasoned circumstances, the Court of Appeal at Brussels shall rule on the matter within 60 days after the lodging of the appeal as referred to in § 1, 1° to 3°.

§ 6. Appeals as referred to in § 1, 4°, shall suspend the decision of the FSMA. Appeals as referred to in § 1, 1°, 2°, [3° and 6°], shall not suspend the FSMA's decision, except in cases of exceptions laid down by or pursuant to the law. The Court of Appeal at Brussels may, before ruling, order that execution of the FSMA's decision be suspended, should the petitioner invoke serious arguments to warrant review of the decision and should the immediate execution of the decision threaten to cause serious prejudice difficult to redress. The Court of Appeal shall rule forthwith on the request for suspension.]]

§ 6 amended by Article 4, 4° of the Law of 23 May 2007 - Belgian Official Gazette 12 June 2007

Article inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 4 September 2002

[Article 122

According to an accelerated procedure determined by the King, an appeal may be lodged with the Council of State:

1° [...]

1° abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

2° by the investment firm, against refusals to recognize or accept decided upon by the FSMA pursuant to Article 120, § 2, 1°, 2° and 3° of the aforementioned Law of 4 December 1990;

3° by the investment firm against the decisions made by the FSMA pursuant to Article 134, second paragraph, 2° and 5°, Article 139 and Article 141, § 3, of the aforementioned Law of 4 December 1990. The appeal shall suspend the decision, except where the FSMA decides otherwise in case of serious threat to creditors or participants;

4° [...]

4° abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

5° [...]

5° abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

6° [...]

6° abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

7° by the applicant, against decisions made by the FSMA in respect of authorization, pursuant to Articles 50 and 51 of the Law of 6 April 1995 [on the legal status and supervision of investment firms]. A like appeal may be lodged by the applicant where the FSMA has made no ruling within the deadlines laid down in the first paragraph of the aforementioned Article 50. In the latter case, the appeal will be treated as though the application had been rejected.

7° amended by Article 245, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

8° [by the investment firm, against the decisions that the FSMA has made pursuant to Article 104, § 1, 1°, 1°bis, 2°, 3° and 4° of the aforementioned Law of 6 April 1995 or to the decrees referring to it. The appeal shall suspend the decision and its publication, except where the FSMA, for reasons of serious threat to investors, has declared its decision executory notwithstanding any appeal;]

8° replaced by Article 245, 3° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

9° [...]

9° abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

10° by the applicant for registration and by the company in question against the decision of the FSMA to refuse, suspend or revoke the registration pursuant to Article 139 of the aforementioned Law of 6 April 1995 and of its implementing measures. The appeal shall serve to suspend the decision, except where the FSMA, for serious reasons, has declared its decision executory notwithstanding any appeal.

[11° [...]]

11° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[12° by the insurance company [...] against decisions to extend the request for information, taken by the FSMA pursuant to [Article 21, § 1^{ter}, of the Law of 9 July 1975 on the supervision of insurance companies];]

12° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and amended by Article 186, 1° of the Law of 27 October 2006 - Belgian Official Gazette 10 November 2006 and by Article 245, 4° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011.

[13° [...]]

13° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[14° [...]]

14° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[15° [...]]

15° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[16° [...]]

16° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[17° by the mortgage company, against decisions to refuse registration, to withdraw registration and to object, taken by the FSMA pursuant to Article 43, §§ 1, 3 and 6, of the Law of 4 August 1992 on mortgage credit;]

17° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

[18° by the mortgage company, against decisions to prohibit, made by the FSMA pursuant to Article 43bis, § 3, of the aforementioned Law of 4 August 1992;]

18° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003

[19° by the [insurance and reinsurance intermediaries], against decisions to register or refusal to register in a category of the register of the [insurance and reinsurance intermediaries], [for the elimination, ban on activities, suspension, amendment of the registration and for warning, also against the decisions that result in the loss of legal registration,] that the FSMA has made pursuant to [Articles 5, 9, and 13bis] the Law of 27 March 1995 on insurance and reinsurance broking and the distribution of insurance.]

19° inserted by Article 21 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March 2003 and amended by Article 4 of the Law of 22 February 2006 – Belgian Official Gazette 15 March 2006

[20° [...]]

20° inserted by Article 31 of the Law of 15 December 2004 - Belgian Official Gazette 1 February 2005 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[21° by the applicant against decisions to refuse registration on which the FSMA has decided pursuant to Article 32 of the Law of 3 August 2012 on certain forms of collective management of investment portfolios, or where the FSMA has not given its opinion within a period of 3 months after the submission of the complete dossier. In the latter case, the application for registration shall be deemed to have been rejected. The investment firm may lodge a similar appeal against the refusal to register decided upon by the FSMA pursuant to Article 162, § 2, second paragraph, of the aforementioned Law of 3 August 2012];

21° amended by Article 245, 5° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 and by Article 226, § 4, 1° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012 and replaced by Article 5 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[22° by the UCI, against the refusal to grant authorization, the refusal to approve or the refusal to accept on which the FSMA has decided pursuant to Articles 34, 36, first paragraph, 45, first paragraph, 47, second paragraph, or 51, fourth paragraph, of the aforementioned Law of 3 August 2012, or where the FSMA has not given an opinion within three months from the submission of the complete dossier. In the latter case, the application for approval, acceptance or registration shall be deemed to have been rejected;]

22° amended by Article 245, 5° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011, and by Article 226, § 4, 3° of the Royal Decree of 12 November 2012 - Belgian Official Gazette, 30 November 2012 and replaced by Article 5 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[23° by the UCI, against decisions made by the FSMA pursuant to Article 111, § 1, second paragraph, 3° and 6° Article 157 and Article 164 of the aforementioned Law of 3 August 2012. Such an appeal shall serve to suspend the decision, except where the FSMA decides otherwise in case of serious threat to creditors or participants;]

23° amended by Article 245, 6° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011, and by Article 226, § 4, 3° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012 and replaced by Article 5 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[24° by the applicant, against decisions made by the FSMA pursuant to Articles 191 and 192 of the aforementioned Law of 3 August 2012. A similar appeal may be lodged by the applicant where the FSMA has not issued its decision by the deadlines laid down in the first paragraph of the aforementioned Article 191. In the latter case, the appeal shall be handled as though the application had been rejected;]

24° amended by Article 226, § 4, 4° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012 and replaced by Article 5 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[25° by the management company of undertakings for collective investment, against decisions made by the FSMA pursuant to the third paragraph of Article 227 of the aforementioned Law of 3 August 2012];

25° amended by Article 226, § 4, 5° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012 and replaced by Article 5 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[26°] [by the management company of UCIs, against the decisions made by the FSMA pursuant to [Article 250, § 1, second paragraph, 1°, 1°bis, 2°, 3°, and 4° of the aforementioned Law of 3 August 2012] or the Decrees referring to it. A similar appeal may be lodged against the decisions made by the FSMA pursuant to § 1, 1° of the aforementioned Article 197, or the Royal Decrees referring to it, where the FSMA has notified the management company of its intention to publish its decisions. The appeal shall serve to suspend the decision and its publication, except where the FSMA, for serious reasons, has declared its decision executory notwithstanding any appeal;

26° amended by Article 245, 7° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011, and by Article 226, § 4, 6° of the Royal Decree of 12 November 2012 - Belgian Official Gazette 30 November 2012

20° to 25° inserted by Article 5 of the Law of 22 July 2004 - Belgian Official Gazette 9 March 2005 and renumbered as 21° to 26° by Article 4 of the Law of 13 June 2006 – Belgian Official Gazette 21 June 2006

[27° by the institution and the legal person referred to in Article [58^{quater}, § 1] of the Programme Law (I) of 24 December 2002 against the measures that the FSMA has taken pursuant to the same Article;

27° amended by Article 245, 8° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

28° by the institution, the organizers and the legal person referred to in Article [49^{quater} § 1] of the Law of 28 April 2003 on supplementary pensions and on tax regulations applicable to such pensions and to certain additional social security benefits, against the measures that the FSMA has taken pursuant to the same Article;

28° amended by Article 245, 9° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

29° by the applicant for authorization against the decision for refusal of this authorization that the FSMA has made pursuant to Article 56 of the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision;

30° by the institution for occupational retirement provision, against decisions to object taken by the FSMA pursuant to Article 65 of the aforementioned Law of 27 October 2006;

31° by the institution for occupational retirement provision, against the recovery measures taken by the FSMA pursuant to Articles 110 and 111 of the aforementioned Law of 27 October 2006;

32° by the institution for occupational retirement provision, against decisions to withdraw authorization made by the FSMA pursuant to Article 130 of the aforementioned Law of 27 October 2006;

33° by the institution for occupational retirement provision, against decisions made by the FSMA pursuant to Article 148 of the aforementioned Law of 27 October 2006.]]

27° to 33° inserted by Article 186, 2° of the Law of 27 October 2006 - Belgian Official Gazette 10 November 2006

29° to 33° inclusive [...]

29° to 33° abrogated by Article 303 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 (entry into force on a date to be determined by the King⁴)

[34° [...]]

34° inserted by Article 3, b) of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[35° [...]]

35° inserted by Article 3, b) of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[36° [...]]

36° inserted by Article 3, b) of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[37° [...]]

37° inserted by Article 3, b) of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[38° [...]]

38° inserted by Article 3, b) of the Law of 16 February 2009 - Belgian Official Gazette 16 March 2009 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[39° by intermediaries in bank and investment services against the decision to register or to refuse to register in a category of the register of intermediaries in bank and investment services, to eliminate, to ban activities, to suspend, to change the registration, and issue an order as well as against the decisions that lead to the loss of right to registration that the FSMA has made pursuant to Articles 7, § 2, and 18 of the Law of 22 March 2006 on intermediation in banking and investment services and on the distribution of financial instruments;]

39° inserted by Article 3 of the Law of 22 December 2009 - Belgian Official Gazette 19 January 2010

[40° [...]]

40° inserted by Article 3 of the Law of 22 December 2009 - Belgian Official Gazette 19 January 2010 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[41° [...]]

41° inserted by Article 3 of the Law of 22 December 2009 - Belgian Official Gazette 19 January 2010 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[42° [...]]

42° inserted by Article 3 of the Law of 22 December 2009 - Belgian Official Gazette 19 January 2010 and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

[43° [...]]

43° inserted by Article 25 of the Law of 2 July 2010 - Belgian Official Gazette 28 September 2010, and abrogated by Article 245, 1° of the Royal Decree of 3 March 2011 – Belgian Official Gazette 9 March 2011

Article inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 04 September 2002

[44° by the regulated undertaking or insurance company against the decision made by the FSMA pursuant to Article 36bis, § 2.]

44° inserted by Article 245, 10° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

[Article 123

§ 1. An issuer, a person who has requested admission of a financial instrument to trading, and the FSMA may lodge an appeal with the Court of Appeal at Brussels against decisions made by the market operator pursuant to Article 7 and whereby financial instruments are admitted to, suspended from or delisted from trading on a Belgian regulated market.

§ 2. Qualified intermediaries may lodge an appeal with the Court of Appeal at Brussels against decisions made by the “Fonds des Rentes”/“Rentenfonds” in respect of membership of the regulated market organized by the Fund or in respect of a sanction imposed on them pursuant to Article 2, sixth paragraph, of the Statutory Order of 18 May 1945 on the creation of the “Fonds des Rentes”/“Rentenfonds”.

§ 2. [...]

§ 2 abrogated by Article 246, 1° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 (entry into force on a date to be determined by the King, at the latest on 31 December 2015)

§ 3. Under penalty of dissolution, the appeal as referred to in §§ 1 and 2 shall be lodged within 30 days of the notification of the decision.

§ 4. Article 120, § 3, shall apply to the appeal as referred to in §§ 1 and 2.

§ 5. Within five days of the registration of the petition, the Registrar of the Court of Appeal at Brussels shall request the market operator or the *Fonds des Rentes/Rentenfonds* to forward the procedure dossier. The dossier shall be forwarded within five days of receipt of the request.

§ 5. Within five days of the registration of the petition, the Registrar of the Court of Appeal at Brussels shall request the market operator[...] or the Fonds des Rentes/Rentenfonds to forward the procedure dossier. The dossier shall be forwarded within five days of receipt of the request.

§ 5 amended by Article 246, 2° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 (entry into force on a date to be determined by the King, at the latest on 31 December 2015)

§ 6. Except in duly reasoned circumstances and except where the appeal is against a decision imposing a penalty or an administrative fine, the Court of Appeal at Brussels shall rule on the matter within a deadline of sixty days after submission of the request.

§ 7. The appeal as referred to in §§ 1 and 2 shall not serve to suspend the decision except where the appeal is against a decision of the 'Rentefonds' imposing a penalty or an administrative fine in application of Article 2, sixth paragraph, of the Decree of 18 May 1945. However, where such an appeal is lodged, the Court of Appeal at Brussels may, before ruling, order that execution of the Minister's decision be suspended, should the petitioner invoke serious arguments to warrant review of the decision and should the immediate execution of the decision threaten to cause serious prejudice difficult to redress. The Court of Appeal shall rule forthwith on the request for suspension.]]

§ 7. The appeal as referred to in § 1 shall not serve to suspend the decision[...] However, where such an appeal is lodged, the Court of Appeal at Brussels may, before ruling, order that execution of the Minister's decision be suspended, should the petitioner invoke serious arguments to warrant review of the decision and should the immediate execution of the decision threaten to cause serious prejudice difficult of redress. The Court of Appeal shall rule forthwith on the request for suspension.]

§ 7 amended by Article 246, 3° of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011 (entry into force on a date to be determined by the King, at the latest on 31 December 2015)

Article inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 04 September 2002

[Article 124

With a view to requesting enforcement of the criminal law, the FSMA is authorized to intervene, at any stage of the proceedings, before the criminal court to which an infraction punishable by this Law or by a law charging the FSMA with supervision of its provisions has been referred, without the FSMA thereby being required to demonstrate the existence of any prejudice. The intervention shall be according to the rules applying to the civil party.]

Article inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 04 September 2002

[Article 125

The President of the Commercial Court shall record the existence of an action or activity, and order it to be ceased, even if it constitutes a criminal offence, where:

1° it is referred to in Article 86bis;

2° it constitutes an infringement of the Law of 3 August 2012 on certain forms of collective management of investment portfolios, of the Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets, or of the Law of 1 April 2007 on takeover bids, or of the implementing provisions of these Laws, or where it repudiates the decisions of the FSMA made on the basis of the aforementioned Laws;

3° it constitutes an infringement by companies or persons referred to in Article 45, § 1, first paragraph, 2° or 3° of the rules referred to in Article 45, § 1, first paragraph, 3° or § 2;

4° it is, for the purpose of the protection of public savings or users of financial products or services, reserved for particular persons or subject to particular terms and that, upon the recommendation of the FSMA, is qualified by the King as an action or activity that can be ordered to be ceased pursuant to the present Article.

He can prohibit these activities where they are imminent but have not yet commenced.

He can also grant a deadline by which the offender must put an end to the infringement if the nature of the infringement so determines. He can also agree to lift the cease and desist order where a stop has been put to the infringement.

The aforementioned powers of the President of the Commercial Court do not apply where the Brussels Court of Appeal has sole jurisdiction on the basis of Article 41 of the Law of 1 April 2007 on takeover bids.]

Article restored by Article 7 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[Article 126

Where the infringement relates to an advertisement or a publication, the cease and desist order can be imposed on the person who took the initiative for the advertisement or publication in question.

If the said initiative-taker is not a resident of Belgium and has not designated a resident of Belgium as the person responsible for the said advertisement or publication, the cease and desist order can also be imposed on:

- the editor of the advertisement or publication or the producer of the audiovisual advertisement or publication;

- the printer or director, if the editor or producer are not residents of Belgium and have not designated a person responsible for this who is a resident of Belgium;

- the distributor as well as anyone who knowingly contributes to the effect of the advertisement or publication, where the printer or director are not residents of Belgium and have not designated a resident of Belgium as the person responsible for the advertisement or publication.]

Article restored by Article 8 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[Article 127

§ 1. Legal action on the basis of Article 125, first paragraph, 1° shall be brought at the request of:

1° the FSMA;

2° the Minister responsible for Finance, the Minister responsible for the Economy, the Minister responsible for Pensions or the Minister responsible for Consumer Protection;

3° the interested parties;

4° an association for the defence of consumer rights that has legal personality and insofar as it is represented in the Consumer Board (Raad voor het Verbruik/ Conseil de la Consommation);

5° a professional or inter-professional association with legal personality.

By derogation from the provisions in Articles 17 and 18 of the Judicial Code, the associations referred to in 4° and 5° can take legal action to defend their collective statutory interests.

§ 2. Legal action on the basis of Article 125, first paragraph, 2°, 3° or 4° shall only be brought at the request of the FSMA.

§ 3. Legal action on the basis of Article 125 can no longer be brought if one year has passed since the deeds put forward have come to an end.]

Article restored by Article 9 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[Article 128

§ 1. At any stage of the proceedings, the President may request the opinion of the FSMA unless the action has been brought by the FSMA.

At any stage of the proceedings, the President may request the opinion of the Bank where the following conditions are met:

1° A cease and desist order has been brought against an institution as referred to in Article 36/2 of the Organic Law of the Bank or the cease and desist order relates to activities reserved to institutions as referred to in that provision; and

2° The cease and desist order has been brought by the FSMA, or the President also requests the advice of the FSMA.

This advice shall be given within fifteen days unless this period is extended by the President. If this advice is not given within this extended period, the proceedings shall continue. A copy of the request and of the advice received shall be added to the dossier of the proceedings.

§ 2. Legal action on the basis of Article 125 shall be brought and conducted as a summary judgment.

Legal action shall be ruled upon notwithstanding any legal action based on the same facts brought before a criminal court.

The judgment shall be provisionally enforceable notwithstanding any appeal, and with no security posted.

§ 3. Any judgment on action brought based on Article 125 shall be communicated to the FSMA within eight days through the clerk of the court, unless the judgment was issued at its petition.

In addition, the clerk of the court is obliged to inform the FSMA forthwith of any appeal lodged against any judgment issued on the basis of Article 125.

§ 4. The President can authorize posting the said judgment or the summary thereof for a period of time determined by him/her, both outside and inside the premises of the offender and can authorize the publication of the judgment or the summary thereof in the press or make it public in any other way, at the expense of the offender.

These publication measures may be authorized only if they can contribute to the cessation of the offending deed or activity, or its effects.

The President shall set the amount that the party to which a publication measure has been granted in accordance with the first paragraph and who has executed the measure despite an appeal submitted on time against the judgment, shall have to pay to the party to the detriment of which the publication measure has been executed, if this measure is overruled in appeal.]

Article restored by Article 10 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

[CHAPTER [VI]

[...]

*Chapter inserted by Article 2 of the Law of 2 August 2002 - Belgian Official Gazette 4 September 2002
and renumbered by Article 49 of the Law of 2 May 2007 – Belgian Official Gazette 12 June 2007*

[...]

*Title abrogated by Article 22 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March
2003*

Article 125

[...]

*Article abrogated by Article 23 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March
2003*

Article 126

[...]

*Article abrogated by Article 23 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March
2003*

[Article 127

[...]

*1st paragraph abrogated by Article 247 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9
March 2011*

Articles 43, § 8, and 43bis, § 3, second paragraph, final sentence, of the aforementioned Law of 4 August 1992 shall be abrogated.

Article inserted by Article 3 of the Law of 2 August 2002 - Belgian Official Gazette 4 September 2002

Article 128

[...]

*Article abrogated by Article 23 of the Royal Decree of 25 March 2003 - Belgian Official Gazette 31 March
2003*

Chapter abrogated by Article 6 of the Law of 31 July 2013 - Belgian Official Gazette 30 August 2013

CHAPTER [VII]

Renumbered by Article 49 of the Law of 2 May 2007 - Belgian Official Gazette 12 June 2007

Amending, abrogating and various provisions

Articles 129 to 143

[...]

Amending and abrogating provisions have not been included here.

Article 144

§ 1. The société anonyme/naamloze vennootschap [limited company] Euronext Brussels and the société anonyme/naamloze vennootschap Nasdaq Europe shall be recognized ipso jure as market operators whose home Member State is Belgium. They are obliged to adapt, within six months of the entry into force of Article 140, § 3, 1° their articles of association and the rules of the markets they organize, in order to align these with the provisions of Chapter II of this Law and its implementing decrees.

[...]

§ 2 abrogated by Article 248 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 145

[...]

Article abrogated by Article 139, 11° of the Law of 16 July 2004 - Belgian Official Gazette 27 July 2004

[Article 146

Upon the recommendation of the FSMA, and, as regards Articles 22 and 23, of the [Bank], and by Decree deliberated on in the Council of Ministers, the King may take the necessary measures for the transposition of the mandatory provisions arising from international treaties or from international contracts entered into pursuant to such treaties, in the matters regulated by the provisions of this Law. The King may, using the same procedure, determine which acts may be treated as an infringement of the mandatory provisions of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), as well as of the mandatory provisions of the Community implementing decrees of the said Directive. The decisions made pursuant to this Article may amend, supplement, replace or abrogate the relevant legal provisions.

1st paragraph amended by Article 198 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Articles 36 and 37 apply to the infringements specified by the King in implementation of the first paragraph.

The Royal Decrees referred to in this Article are abrogated ipso jure if they have not been confirmed by law within 24 months of their publication in the *Moniteur belge*/Belgisch Staatsblad. (Belgian Official Gazette).]

Article replaced by Article 5 of the Law of 14 February 2005 - Belgian Official Gazette 4 March 2005

Article 147

§ 1. The King may modify the terminology of the legal provisions in force as well as the references contained in them, with a view to bringing them in line with this Law.

§ 2. The King may coordinate the provisions of Chapters IV and VII and the provisions referred to in Article 81, § 1, as well as the provisions that have explicitly or implicitly amended them up to the moment of the consolidation.

To that end, He may, more particularly:

1° reorganize, in particular by reordering and renumbering the provisions to be consolidated:

2° renumber accordingly the references contained in the provisions to be consolidated;

3° amend the wording of the provisions to be consolidated, with a view to their being in agreement with each other and to achieving consistency in terminology, without affecting the principles they embody.

The consolidation shall bear the title determined by the King.

Article 148

[With the exception of provisions to the contrary in this Law, the King issues the decrees He is to issue in implementation of this Law on the proposal of:

- the Minister responsible for Finance, the Minister responsible for the Economy, the Minister responsible for Pensions and the Minister responsible for Consumer Protection, insofar as the provisions concern the matters referred to in Article 45, § 1, 6°;

- the Minister responsible for Finance, the Minister responsible for the Economy, the Minister responsible for Consumer Protection, insofar as the provisions concern the matters referred to in Article 45, § 1, 3°, 5° and § 2;

- the Minister responsible for Finance and the Minister responsible for the Economy insofar as the provisions concern the matters referred to in Article 45, § 1, 2°, c), d) and e);

- the Minister responsible for Finance and the Minister responsible for Pensions, insofar as the provisions concern the matters referred to in Article 45, § 1, 2°, g), and 4°;
- the Minister responsible for Finance, insofar as the provisions concern the matters referred to in Article 45, § 1, 1° and 2°, a), b) and f);
- the Minister responsible for Finance and the Minister responsible for Consumer Protection for all other provisions.]

Article replaced by Article 249 of the Royal Decree of 3 March 2011 - Belgian Official Gazette 9 March 2011

Article 149

The King determines the date of entry into force of each of the provisions of this Law.