

Law of 2 August 2002, Article 10

This is an unofficial translation of the text consolidated on 1 October 2016

§ 1. ...

§ 2. Upon the recommendation of the FSMA, the King determines:

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

a) periodically regarding their activities and results;

b) immediately regarding direct or indirect changes to the rights attaching to the transferable securities or with their derivative financial instruments;

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

3° the possibilities available to the issuers referred to in 1° as regards communication of information by electronic means to the holders of transferable securities, and in special cases, as regards the determination of the venue for the general meeting;

4° the specific obligations incumbent upon the issuers referred to in 1° as regards the disclosure of financial information and related information to the public;

5° the detailed rules and time limits for disclosure, transmission to the FSMA, and storage of the information referred to in 1° and 2°, including the minimum standards that the storage mechanisms must comply with;

6° without prejudice to Articles 33 and following, the rules governing the FSMA's supervision - including its powers and possible measures - of compliance with the third, fourth and sixth paragraphs and with the rules determined by application of this paragraph, 1° to 5°, and in particular the conditions under 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 disclose that the issuer or that other person is failing to comply with its obligations.

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

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

Where none of their transferable securities 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, the 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, French, or a language customary in the sphere of international finance.

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 were admitted to trading on a regulated market before 31 December 2010, for as long as such debt securities are outstanding.

Where transferable securities are admitted to trading on a regulated market without the issuer's consent, the obligations under the third and fourth paragraphs shall be incumbent not upon the issuer but upon the person who, without the issuer's consent, has asked for such admission.

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

1° in the case of issuers of shares or issuers 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 from among the Member States where their transferable securities are admitted to trading on a regulated market;

2° for issuers not falling under 1°, those issuers that, given the choice between the Member State of the European Economic Area where their registered office is located, where applicable, and the Member States where their transferable securities have been admitted to trading on a regulated market have chosen Belgium as home Member State, it being understood that such issuers can choose only one of these as home Member State;

3° issuers for whom Belgium is the home Member State in accordance with § 3*bis*.

For an issuer as referred to in the first paragraph, 1°, b) that has chosen Belgium as home Member State, Belgium shall remain the home Member State unless its transferable securities are no longer admitted to trading on a Belgian regulated market and it has chosen another home Member State from among the other Member States in which its transferable securities are admitted to trading on a regulated market, and has made that choice public and communicated it electronically to the FSMA.

For an issuer as referred to in the first paragraph, 2° that has chosen Belgium as home Member State, the choice remains valid for at least three years, unless:

1° its transferable securities are no longer admitted to trading on a regulated market; or

2° during this three-year period, its transferable securities are no longer admitted to trading on a Belgian regulated market and it has chosen another home Member State from among the Member States in which its transferable securities are admitted to trading on a regulated market and, where applicable, the Member State where its registered office is located, if it has made that choice public and has communicated it to the FSMA; or

3° if, during this three-year period, the issuer has come within the scope of the first paragraph, 1° and, subsequent to that change, has been assigned or has chosen another home Member State, has made this choice public and has communicated it electronically to the FSMA.

§ 3bis For issuers whose transferable securities are, whether or not exclusively, admitted to trading on a Belgian regulated market and that do not make their choice of home Member State public within a period of three months starting from the date when their transferable securities were admitted for the first time to trading on a regulated market, Belgium shall, until such time as they have chosen a single home Member State and made the choice public:

- (i) be its home Member State if the transferable securities are admitted exclusively to trading on a Belgian regulated market;
- (ii) be one of the home Member States if the transferable securities are not admitted exclusively to trading on a Belgian regulated market.

§ 4. For purposes of the application of § 2, fourth paragraph, and of § 3, first paragraph, 1°, “debt securities” means: bonds or other forms of negotiable debt securities with the exception of securities which are equivalent to shares in companies or which, 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 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 value of the denomination per unit on the date of issue is equivalent to at least EUR 100,000.

For 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 value of the denomination per unit on the date of issue is equivalent to at least EUR 50,000.

For purposes of the application of § 3, first paragraph, 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 value of the denomination per unit on the date of issue is equivalent to less than EUR 1,000 or practically equal to EUR 1,000.

For purposes of the application of § 3, the King may, upon the recommendation of the FSMA, determine the procedure to be followed by an issuer in making public its choice of home Member State and communicating that choice to the supervisory authorities of the Member States concerned.

For purposes of supervising compliance with this Article and with its implementing the decrees and regulations, including taking measures and sanctions in the event of an infringement, the references made in the provisions of this Law to natural persons or legal entities are to be understood also to apply to registered companies without legal personality and to trusts.

§ 5. The King may, upon the recommendation of the FSMA, for issuers other than those referred to in § 3 whose transferable securities are admitted, whether or not exclusively, to trading on a Belgian regulated market:

1° lay down rules governing the communication to the FSMA of the identity of the home Member State within the meaning of Directive 2004/109/EC;

2° lay down rules governing the collaboration of the FSMA with the competent authority of the home Member State;

3° determine the circumstances in which the FSMA may take protective measures;

4° determine what protective measures in particular the FSMA may take.

The information on issuers as 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, decree that the rules for disclosure and communication to the FSMA laid down as regards the information on the issuers as referred to in § 3 shall apply in full or in part to the information on issuers other than those referred to in § 3 whose transferable securities are exclusively admitted to trading on a Belgian regulated market and which must be disclosed pursuant to the national legislation transposing Directive 2004/109/EC.

§ 5*bis*. The King may, upon the recommendation of the FSMA, lay down rules for issuers other than those referred to in § 3 whose registered office is located in Belgium but whose transferable securities are admitted to trading exclusively in one or more foreign regulated markets, as regards the communication to the FSMA of the identity of the home Member State within the meaning of Directive 2004/109/EC.

§ 6. The King may, upon the recommendation of the FSMA, extend the application of this Article in full or in part, as appropriate, on the conditions which He determines, to issuers whose financial instruments are traded or admitted to trading on an MTF, and may determine that certain provisions of its implementing decrees shall apply in full or in part to the said issuers. 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 appropriate, lay down specific rules for certain types of issuer, for certain types of MTF, or for individual MTFs which He designates.

§ 7. The King may, upon the recommendation of the FSMA, determine that an issuer governed by Belgian law of which at least some voting securities 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 governing body of the company concerned must present to the shareholders' AGM an explanatory report on the subject.

§ 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 as referred to in the first paragraph, of any decision by the Court to declare the bankruptcy of 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 Bankruptcy Law of 8 August 1997, and of any decision made by the Court pursuant to a report from the judge-delegate or upon a request or summons by the public prosecutor's office concerning such an issuer within the framework 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.