

## Press release

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# FINMA publishes “Market conduct rules” Circular

**The Swiss Financial Market Supervisory Authority FINMA published today the definitive version of its fully revised “Market conduct rules” Circular. The Circular sets out specific details of FINMA’s supervisory practices in combating market abuse. It enters into force on 1 October 2013.**

The fully revised Circular 2013/08 “Market conduct rules” sets out specific details of FINMA’s supervisory practices in combating market abuse. It is directed at all market participants regarding conduct prohibited under stock market law. It also contains additional organisational requirements for institutions subject to prudential supervision by FINMA, e.g. securities dealers, banks, insurers and exchanges. The Circular was revised following the revision of the Stock Exchange Act and the Stock Exchange Ordinance. The revised legislation has created specific statutory provisions on stock exchange offences and market abuse that are entirely new at the supervisory law level, prohibiting insider trading and market manipulation for all individuals and legal entities.

### **Numerous consultation responses**

The draft submitted for consultation prompted a great deal of feedback, primarily from institutions subject to prudential supervision and the legal community. FINMA received a wide range of responses, which it analysed carefully. The consultation report, also published today, gives a transparent view of how the 19 responses received were taken into account in the final wording of the Circular.

### **Changes relative to the consultation draft**

FINMA addressed a large number of suggestions without substantially altering the general thrust of any individual provisions or of the Circular as a whole.

The most significant changes are as follows:

- In assessing whether information is confidential, the decisive factor is now whether unconnected third parties can obtain it from generally accessible sources.
- The “reasonable investor test”, which uses the behaviour of a reasonable market participant who is familiar with the market as the benchmark for assessing rule violations, is now applied to insider trading in deciding whether information is price-sensitive and also to market manipulation in determining whether a signal exists.
- The examples of conduct that violate the ban on market manipulation have been made more precise. In addition, the list of permissible transactions and conduct has been expanded.
- Regarding the organisation of areas of confidentiality within institutions subject to prudential supervision, it is sufficient if the individuals who actually have the power of decision over trading in securities do not possess insider information and, conversely, those who possess insider information do not have the power of decision over trading in securities. The consultation draft went into more detail in this respect.
- ~~Regarding the organisation of areas of confidentiality within institutions subject to prudential supervision, it is sufficient if the individuals who make decisions do not possess insider information and, conversely, those who possess insider information do not have to make decisions. The consultation draft went into more detail in this respect.~~
- Not all telephone calls within supervised institutions have to be recorded, only those made by staff working in the trading room of a securities dealer.

The fully revised Circular 2013/08 “Market conduct rules” enters into force on 1 October 2013. It replaces the existing FINMA Circular 2008/38 “Market conduct rules”. Compliance with the organisational requirements must be ensured by 1 January 2015, and the first risk assessment must be carried out by 1 April 2014.

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