Eidgenössische Finanzmarktaufsicht FINMA
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Contact:
Tobias Lux, Media Spokesperson
Phone +41 (0)31 327 91 71
tobias.lux@finma.ch

FINMA imposes sanctions for insider trading and market manipulation

The Swiss Financial Market Supervisory Authority FINMA has concluded enforcement proceedings in two separate cases of market abuse. In the first case it found that a former board member of a number of Swiss industrial concerns had engaged in insider trading. In the second, a securities trading company and three of its traders were found to have been manipulating the market. FINMA has ordered the disgorgement of some million Swiss francs in unlawfully generated profits in both cases and imposed lengthy activity and industry bans on the traders.

Since 2013 FINMA has been tasked with investigating and sanctioning insider trading and market manipulation by all market participants in Switzerland. In its role as market supervisor, FINMA launched investigations into two separate cases of breaches of financial market law and brought them to a successful conclusion. The insider trading case is the first of its kind in which FINMA has sanctioned an individual for regulatory breaches who was not employed by a FINMA-supervised institution.

Former board member repeatedly committed insider trading

FINMA launched proceedings against a former board member of a number of well-known Swiss industrial concerns. Also included in the proceedings was a limited company controlled by the individual in question. Between 2013 and 2016 the former board member repeatedly and systematically used information from companies of which he was a board member to exploit expected share price movements through derivative transactions.

Prior to takeover announcements, positive business results, important strategic decisions and spin-offs, the former board member built up long positions in order to exploit subsequent price gains. At one company, he also pursued a short strategy, betting on falling share prices. Moreover, he repeatedly flouted the company’s defined no-trade periods. He also failed to comply with his obligation to report management transactions. FINMA’s investigation found numerous indications that this individual had used non-public information, which came to his attention through business contacts, to make substantial investments – and profits – trading in the shares of companies for which he did not work.

FINMA orders the disgorgement of CHF 1.4 million in unlawfully generated profits

In the enforcement proceedings now completed, FINMA found that his conduct was in breach of financial market law and that he had repeatedly and systematically flouted the ban on using non-public information. FINMA has therefore ordered the disgorgement of approximately CHF 1.4 million in unlawfully generated profits relating to eleven separate cases and six securities. FINMA also immediately shared its findings with the Office of the Attorney General of Switzerland (OAG), which instituted criminal proceedings against the individual in question. If the OAG's criminal proceedings ultimately result in the disgorgement of profits, these take precedence.

FINMA became aware of the case in 2016 due to suspicious trading volumes and price movements and launched an extensive investigation. FINMA and the OAG coordinated their activities and shared valuable information to the extent permitted under the law.

Securities trading company manipulated the market

The second set of enforcement proceedings involved a small proprietary trading company and three of its traders. FINMA had already ordered the liquidation of the company in 2015 because it was operating without a licence. Between 2011 and 2015 the traders influenced the price of Swiss blue chip shares by entering numerous large orders in the order book. Initial indications of these activities came from the SIX exchange surveillance unit. In its investigation FINMA found that most of the orders were not executed and that there was never any intention to execute them. They did not reflect any genuine supply or demand situation. Instead the traders used derivatives based on the underlying shares to exploit the price movements triggered by the large orders, generating substantial profits through these transactions. The original buy orders were subsequently deleted. The sole reason for entering the orders was therefore to manipulate the market by creating the impression of market activity and distorting prices. FINMA investigated 300 cases in which several dozen Swiss securities were affected. FINMA found evidence of manipulative conduct in all these cases and concluded that the company's entire trading strategy was based on manipulating the market through proprietary trading.

FINMA imposes lengthy activity and industry bans

The systematic market abuse uncovered by FINMA constitutes a breach of financial market law. FINMA has banned the traders from working in securities trading for eight and six years. Industry bans were also handed down, prohibiting them from working in management positions at supervised institutions for five and four years respectively. FINMA has also ordered the proceeds of the company's liquidation to be disgorged in full as unlawfully generated profits. The amount in question cannot be determined until the company has been liquidated. Given, however, that the unlawfully generated profits amounted to a high seven-digit sum in Swiss francs, FINMA expects to recover over a million Swiss francs. In addition, FINMA has ordered the seizure of approximately CHF 200,000 in dividend and bonus payments from one of the traders. All funds seized will be transferred to the Federal government. As is usual appeals can be filed against FINMA rulings.

Market supervision enhances trust in the markets

Insider trading and market manipulation harm the market and undermine the trust of participants in its fairness. In its activities as market supervisor, FINMA follows up on well over a hundred indications of suspected insider offences and market manipulation every year, analysing millions of transactions and identifying the beneficial owners behind transactions in hundreds of thousands of cases. The tools and facilities available to our market supervision specialists are improving. Traces of abusive practices remain in the underlying data (big data) and can therefore be followed. Tools which can be used to analyse large volumes of data and uncover abusive practices, even in complex cases, are now also available. FINMA will continue to investigate suspicious conduct involving companies and individuals consistently and rigorously in order to uncover market abuses and justify the trust of market participants by ensuring that the market functions properly and delivers fair prices.