

Press release

Date:
22. August 2016

Embargo:

Contact:
Vinzenz Mathys, Media Spokesperson
Tel. +41 (0)31 327 19 77
vinzenz.mathys@finma.ch

FINMA opens consultation on amending the notification duty for parties with the power to exercise voting rights

The Swiss Financial Market Supervisory Authority FINMA is reviewing the rules set out in the FINMA Financial Market Infrastructure Ordinance governing the notification duty for voting rights delegated on a discretionary basis. FINMA is therefore holding a consultation period lasting until 3 October 2016 and will amend the rules depending on the results of the consultation.

The Financial Market Infrastructure Act (FMIA) and the FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA) entered into force on 1 January 2016. The rules contained in the FMIA and FMIO-FINMA relating to disclosure stipulate that when voting rights are delegated, e.g. within the scope of an asset management mandate, both the beneficial owners of participations subject to the notification duty and the parties who have the power to exercise the voting rights delegated to them are subject to the notification duty. The FMIO-FINMA further defines this notification duty for legal entities to which voting rights have been delegated: anyone who controls a legal entity either directly or indirectly is subject to the notification duty. Following the consultation held in 2015, this rule was incorporated at the request of the consultation respondents.

Stakeholders affected by the notification duty have since reported practical problems with its implementation. Under the rule, it is very laborious for individuals who control financial groups but do not perform any operating function to fulfil the notification duty. FINMA will amend the rule provided there is a demonstrable need across the industry to do so. For this purpose, it is holding a consultation period that will last until 3 October 2016. FINMA is proposing the approach that it put forward at the time of the 2015 consultation. This stipulates that in the case of delegated voting rights, those parties who actually decide on how voting rights are exercised are subject to the notification duty.