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Federal Act on the Organisation of Swiss Post (Post Organisation Act, POA)

of 17 December 2010 (Status as of 1 October 2012)

*The Federal Assembly of the Swiss Confederation,
on the basis of Article 92 of the Federal Constitution¹,
and having considered Federal Council dispatch dated 20 May 2009²
decrees:*

Section 1: General Provisions

Art. 1 Aim

This Act governs the organisation of Swiss Post and its change of legal form.

Art. 2 Legal form and name

¹ Swiss Post is a company limited by shares subject to a special statutory regime.

² It shall be entered in the Commercial Register under the names "*Die Schweizerische Post AG, La Poste Suisse SA, La Posta Svizzera SA, La Posta Svizra SA*"

Art. 3 Objects

¹ The objects of Swiss Post are to provide the following services both domestically and abroad:

- a. Conveyance of postal items and small consignments in standardised containers, as well as all related services;
- b. The following financial services:
 1. payment services,
 2. accepting customer deposits,
 3. account services and other related services,
 4. investments in its own name,
 5. other financial services on behalf of third parties;

AS 2012 5043

¹ SR 101

² BBl 2009 5265

c. regional passenger transport services and related services.

² It may engage in all legal transactions which serve the objects of the undertaking, and in particular:

- a. acquire and dispose of real estate;
- b. form companies;
- c. take equity interests in companies;
- d. borrow and invest funds from and in money and capital markets.

³ It may not, however, grant loans or mortgages to third parties.

⁴ Within the normal use of its infrastructure, it may provide services on behalf of third parties.

Art. 4 Applicable law

Unless this Act provides otherwise, Swiss Post is subject to the provisions of the Swiss Code of Obligations governing companies limited by shares³.

Section 2: Share Capital and Ownership Strategy

Art. 5 Share capital

The amount of the share capital, as well as the type, nominal value and number of shares shall be set out in the Articles of Association.

Art. 6 Circle of shareholders

The Swiss Confederation is the shareholder of Swiss Post. It must hold a majority of the capital and voting rights.

Art. 7 Ownership strategy

¹ Every four years, the Federal Council shall determine the strategic goals that the Swiss Confederation aims to achieve as owner of Swiss Post.

² Prior to adopting the strategic goals, the Federal Council shall consult the competent committees of the Federal Parliament.

³ The Board of Directors shall ensure implementation of the strategic objectives, report to the Federal Council with regard to their attainment, and make available to it such information as is necessary for the purpose of verification.

Section 3: Corporate Bodies and Personnel

Art. 8 Corporate Bodies

¹ The corporate bodies of Swiss Post are the General Meeting of Shareholders, the Board of Directors, and the Auditors.

² No member of the Board of Directors may belong to the executive management.

³ Swiss Post personnel must be appropriately represented in the Board of Directors.

Art. 9 Employment relationship

¹ Swiss Post personnel are employed under private law.

² Swiss Post shall conduct negotiations with the staff associations for the purpose of concluding a collective employment contract; the obligation to conduct negotiations on a collective employment contract pursuant to Article 4 paragraph 3 letter c of the Postal Services Act of 17 December 2010 is reserved⁴.

³ In its capacity as employer, Swiss Post shall promote the diversity and equality of its employees, in particular equality for employees with disabilities.

⁴ The Federal Council shall ensure that at Swiss Post and the undertakings it controls, Article 6a paragraphs 1-5 of the Federal Personnel Act of 24 March 2000⁵ shall apply *mutatis mutandis* to members of the management bodies and to other personnel who are remunerated at a comparable level.

Section 4: Tax Liability

Art. 10

Swiss Post has the same tax liability as companies.

Section 5: Legal Relationships and Liability

Art. 11

¹ Swiss Post's legal relationships are governed by the provisions of private law.

² The liability of Swiss Post, its corporate bodies and personnel is governed by the provisions of private law. The Government Liability Act of 14 March 1958⁶ does not apply.

⁴ SR 783.0

⁵ SR 172.220.1

⁶ SR 170.32

Section 6: Final Provisions

Art. 12 Implementation

The Federal Council shall implement this Act.

Art. 13 Change in legal form

¹ The autonomous institution is converted to a company limited by shares subject to a special statutory regime under the provisions of this Act. Its legal relationships are not changed thereby.

² The Federal Council shall determine the date of the change in legal form. Prior to the change, it shall consult the competent committee of the Federal Parliament. The Federal Council shall adopt such decrees as are necessary for the change of legal form:

- a. it shall decide as to the opening balance of the company limited by shares;
- b. it shall select the board of directors, appoint its chairperson, and adopt the first articles of association;
- c. It shall appoint the auditors.

³ When deciding on the opening balance, it shall approve the institution's final accounts and management report; the institution's board of directors shall make a corresponding motion.

⁴ When deciding on the opening balance, it may convert the institution's endowment capital into the equity capital of the company limited by shares in order to attain a reasonable level of equity capital. The state accounts of the Swiss Confederation and the Swiss Post balance sheet shall be adjusted accordingly.

⁵ The Board of Directors of the institution shall prepare for the conversion to the new legal form, as well as the spin-off of PostFinance and the transfer of PostFinance's assets. As of the date of the change of legal form, the Board of Directors of the company limited by shares shall issue the organisational regulations and shall perform its other tasks in accordance with the Code of Obligations⁷ and the articles of association.

⁶ In its capacity as employer, the company limited by shares shall continue the existing employment relationships. The public law employment relationships of the personnel shall be converted into private law employment relationships at the time that the new collective employment contract takes effect, or no later than two years following the change of legal form.

⁷ Any entries in the land register, the commercial register and any other public registers in connection with the change of legal form shall be exempt of taxes and charges.

⁸ The provisions of the Mergers Act of 3 October 2003⁸ apply to the change of the legal form of the institution into a company limited by shares.

Art. 14 Spin-off of PostFinance

¹ The unit of the Swiss Post Ltd. Group that provides payment services under the postal service legislation shall be spun-off into a private company limited by shares known as PostFinance Ltd.

² Swiss Post Ltd. is the shareholder of PostFinance Ltd. It must hold a majority of the company's equity capital and voting rights.

³ Existing contractual relationships relating to payment services shall be transferred at the time of the spin-off to PostFinance Ltd.

⁴ In its capacity as employer, PostFinance Ltd. shall continue the existing employment relationships. The public-law employment relationships shall be converted into private-law employment relationships at the time of the spin-off of PostFinance, or no later than two years thereafter.

⁵ Any entries in the land register, the commercial register, and any other public registers in connection with the deconsolidation and the transfer of assets shall be exempt of taxes and charges.

⁶ The provisions of the Mergers Act of 3 October 2003⁹ apply *mutatis mutandis* to the spin-off of PostFinance and the transfer of assets; the Federal Council may declare individual provisions as not applicable.

⁷ The spin-off requires the approval of the Federal Council.

Art. 15 Transitional provisions

¹ The Federal Department of the Environment, Transport, Energy and Communications may:

- a. correct allocations of immovable property and rights *in rem* on the basis of Article 20 paragraph 2 letter b of the Postal Services Organisation Act of 30 April 1997¹⁰ until the end of 2013;
- b. correct register entries which were made on the basis of Article 13 paragraph 7 as well as Article 14 paragraph 5 for a period of five years following the commencement of this Act, by decree, free of taxes and charges.

² Complaints made by personnel filed prior to the commencement of this Act are adjudicated under the previous law.

³ Where PostFinance Ltd.'s own financial resources and those of Swiss Post Ltd. are insufficient, the Swiss Confederation is liable:

- a. for customer deposits up to CHF 100,000 per creditor for a period of 5 years following the commencement of this Act;

⁸ SR 221.301

⁹ SR 221.301

¹⁰ AS 1997 2465

- b. for bonds still outstanding after the expiry of the five-year period until their maturity date;
- c. for all remaining obligations until their final maturity date or for the duration of the termination notice period, but no later than 5 years following the commencement of this Act.

⁴ Swiss Post Ltd. and PostFinance Ltd. are authorised for a period of three years following the commencement of this Act and on becoming liable to pay tax to valorise any existing hidden reserves in a tax-neutral manner.

Art. 16 Repeal and amendment of the laws currently in force

The repeal and amendment of the laws currently in force are governed by the Annex.

Art. 17 Referendum and commencement

¹ This Act is subject to optional Referendum.

² It comes into force together with the Postal Services Act of 17¹¹ December 2010. The Federal Council may bring certain provisions into force at an earlier date where necessary for the change of legal form.

Commencement date: 1 October 2012¹²

¹¹ SR 783.0

¹² Federal Council Decree of 29 Aug. 2012

Annex
(Art. 16)

Repeal and amendment of existing legislation

I

The Federal Act of 30 April 1997¹³ on the Organisation of Federal Postal Services is repealed.

II

The following Acts are amended as follows:

...¹⁴

¹³ AS **1997** 2465, **2000** 2355, **2001** 707, **2003** 3385, **2007** 4703

¹⁴ The amendments may be consulted under AS **2012** 5043.

