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Ordinance on the Recognition of Foreign Trading Venues for the Trading of Equity Securities of Companies with Registered Office in Switzerland

of 30 November 2018 (Status as of 30 November 2018)

The Swiss Federal Council,

based on Article 184 paragraph 3 of the Federal Constitution¹,
ordains:

Art. 1 Duty to obtain recognition for foreign trading venues

¹ In addition to and irrespective of the duty to obtain recognition pursuant to Article 41 of the Financial Market Infrastructure Act of 19 June 2015² (FMIA), from 1 January 2019 trading venues with registered office abroad must also obtain prior recognition from the Swiss Financial Market Supervisory Authority (FINMA) if:

- a. equity securities of companies with registered office in Switzerland are traded at such trading venues or if such trading venues facilitate the trading of such equity securities; and
- b. the equity securities pursuant to letter a are listed at a stock exchange in Switzerland or are traded at a trading venue in Switzerland.

² A foreign stock exchange does not require recognition for the trading of certain equity securities pursuant to paragraph 1 if:

- a. the equity securities are admitted to trading or are listed at the foreign stock exchange with the express consent of the issuer of the equity securities, which must have been given prior to 30 November 2018;
- b. the equity securities were admitted to trading or were listed at the foreign stock exchange before 30 November 2018; and
- c. the issuer of the equity securities accepts responsibility for the duties associated with the admission to trading or listing at the foreign stock exchange.

AS 2018 4293

¹ SR 101

² SR 958.1

³ The recognition of a foreign trading venue ceases once that foreign trading venue has its registered office in a jurisdiction listed in accordance with Article 3 paragraph 3.

Art. 2 Procedure

¹ FINMA shall grant recognition on request if the foreign trading venue:

- a. is subject to appropriate regulation and supervision; and
- b. does not have its registered office in a jurisdiction that restricts its market participants in trading equity securities of companies with registered office in Switzerland at Swiss trading venues and thereby significantly adversely affects the trading in such equity securities at Swiss trading venues.

² FINMA may also grant recognition to a foreign trading venue without being requested to do so if that foreign trading venue fulfils the requirements of paragraph 1.

Art. 3 Informing the affected trading venues and publishing lists

¹ FINMA shall inform the affected foreign trading venues about this Ordinance by 31 December 2018.

² FINMA shall publish a list of all recognised foreign trading venues.

³ The Federal Department of Finance shall publish a list of jurisdictions that fall within the definition in Article 2 paragraph 1 letter b.

Art. 4 Temporary authorisation of foreign Participants

¹ In application of Article 40 FMIA³, FINMA may, in particular cases, grant applicants temporary authorisation to participate in Swiss trading venues until the end of the authorisation procedure, but for no longer than one year.

² Temporarily authorised participants must fulfil the record-keeping and reporting duties pursuant to Articles 38 and 39 FMIA no later than from 1 August 2019; facts occurring between 1 January 2019 and 31 July 2019 that come under these duties must be recorded and reported retroactively no later than 1 October 2019.

Art. 5 Relation of this Ordinance to the Financial Market Supervision Act

This Ordinance is deemed to be a financial market act pursuant to Article 1 paragraph 1 of the Financial Market Supervision Act of 22 June 2007⁴.

³ SR 958.1

⁴ SR 956.1

Art. 6 Commencement and period of validity

This Ordinance comes into force on 30 November 2018 at 20.00 and applies until 31 December 2021.

