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**Ordinance  
of the Swiss Financial Market Supervisory Authority  
on Collective Investment Schemes  
(FINMA Collective Investment Schemes Ordinance, CISO-FINMA)**

of 27 August 2014 (Status as of 1 January 2021)

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*The Swiss Financial Market Supervisory Authority (FINMA),*

based on Articles 55 paragraph 3, 56 paragraph 3, 71 paragraph 2, 91 and 128 paragraph 2 of the Collective Investment Schemes Act of 23 June 2006<sup>1</sup> (CISA),  
*decrees:*

**Title 1            Collective Investment Schemes**

**Chapter 1        Securities Funds**

**Section 1        Securities Lending**

(Art. 55 para. 1 let. a CISA; Art. 76 CISO<sup>2</sup>)

**Art. 1            Definition**

Securities lending means: a legally binding transaction in which the fund management company or investment company with variable capital (SICAV), acting as lender, undertakes to temporarily transfer to the borrower ownership of specific securities, and where:

- a. the borrower is obliged to return to the lender securities of the same type, quantity and quality at the end of the securities lending period and to transfer any income earned during that period to the lender; and
- b. the lender bears the price risk of the securities for the duration of the securities lending.

**Art. 2            Principles**

<sup>1</sup> The fund management company or SICAV may lend securities in its own name and for its own account to a borrower («principal»).

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<sup>1</sup> SR 951.31

<sup>2</sup> Collective Investment Schemes Ordinance of 22 Nov. 2006 (SR 951.311).

<sup>2</sup> The fund management company or SICAV may also appoint an intermediary to put the securities at the disposal of the borrower either on a fiduciary basis («agent») or directly («finder»), in accordance with the provisions of this section.

<sup>3</sup> The fund management company or SICAV shall conclude a standardised framework agreement governing securities lending with each borrower or intermediary in accordance with Article 7.

### **Art. 3** Authorised borrowers and intermediaries

<sup>1</sup> The fund management company or SICAV shall conduct securities lending transactions exclusively with first-class supervised borrowers and intermediaries which are specialised in transactions of this type, such as banks, brokers and insurance companies, as well as licensed and recognised central counterparty clearing houses and central securities depositories that guarantee the proper execution of such transactions.

<sup>2</sup> The fund management company or SICAV must obtain the custodian bank's written consent should the latter not be participating in the securities lending transaction as either borrower or intermediary.

<sup>3</sup> The custodian bank may only withhold its consent if there is no guarantee that it can meet its statutory and contractual duties with regard to settlement, safekeeping, provision of information, and control.

### **Art. 4** Securities eligible for lending

<sup>1</sup> The fund management company or SICAV may lend all types of securities that are traded on an exchange or other regulated market open to the public.

<sup>2</sup> It may not lend securities acquired under a reverse repo transaction.

### **Art. 5** Termination dates and notice periods

<sup>1</sup> It must be possible to terminate individual transactions and the standardised framework agreement for the securities lending transaction at any time.

<sup>2</sup> Where the observation of a notice period has been agreed, that period may not exceed seven banking days.

### **Art. 6** Scope and duration

<sup>1</sup> If the fund management company or SICAV is required to observe a notice period before it may again have legal control of the loaned securities, it may not lend more than 50 percent of the eligible holding of a particular security.

<sup>2</sup> If, however, the borrower or intermediary provides a contractual guarantee to the fund management company or SICAV that the latter may again legally dispose of the loaned securities on the same or following banking day, the fund management company or SICAV may lend the entire eligible holding of a particular security.

**Art. 7** Minimum contents of the standardised framework agreement

<sup>1</sup> The standardised framework agreement must meet the relevant international standards.

<sup>2</sup> The standardised framework agreement must indicate those securities funds whose securities are in principle eligible for securities lending, in addition to the securities which are excluded from securities lending.

<sup>3</sup> The fund management company or SICAV shall stipulate in the standardised framework agreement with the borrower or intermediary that they:

- a. pledge or transfer collateral to the fund management company or SICAV for the purposes of guaranteeing restitution in accordance with Article 51;
- b. are liable vis-à-vis the fund management company or SICAV for:
  1. the prompt, unconditional payment of any income accruing during the securities lending period,
  2. the assertion of other proprietary rights such as conversion and subscription rights, and
  3. the contractually agreed return of securities of the same type, quantity and quality;
- c. assign all securities available for the securities lending transaction to the individual lenders on the basis of objective and transparent criteria.

<sup>4</sup> The framework agreement should also set out:

- a. agreement of an appropriate collateral value that at all times should amount to at least 100 percent of the market value of the loaned securities;
- b. the loaned securities are excluded from the claims of the borrower or intermediary.

**Art. 8** Special duties of the custodian bank

The custodian bank has the following special duties in connection with the settlement of the securities lending transaction:

- a. It shall inform the fund management company or SICAV on a regular basis of the lending transactions conducted.
- b. It shall, at least once a month, account for any income earned on the securities lending.
- c. It shall ensure that the securities lending transactions are settled in a secure manner, in line with the agreements and, in particular, it shall monitor compliance with the requirements relating to collateral.
- d. In addition, it shall carry out the administrative duties assigned to it under the safe-custody regulations during the term of the lending transaction and assert all rights associated with the loaned securities, unless such duties have been ceded under the terms of the standardised framework agreement.

**Art. 9** Inventory and statement of net assets, or balance sheet, inclusion in investment limits

<sup>1</sup> Loaned securities must be denoted as being «lent» in the securities fund's inventory and must continue to be included in the statement of net assets, or the balance sheet.

<sup>2</sup> Loaned securities must continue to be taken into account when ensuring compliance with the statutory and regulatory investment restrictions.

**Section 2 Securities Repurchase Agreements (Repo, Reverse Repo)**

(Art. 55 para. 1 let. b CISA; Art. 76 CISO<sup>3</sup>)

**Art. 10** Definitions

The terms below are defined as follows:

- a. «securities repurchase agreement» means a repo (or sale and repurchase agreement) and reverse repo (or reverse sale and repurchase agreement);
- b. «repo» means a legally binding transaction in which one party (the borrower or repo seller) temporarily transfers ownership of securities to another party (the repo buyer), and where:
  1. the repo buyer undertakes to return to the repo seller securities of the same type, quantity and quality at the end of the repo term together with any income earned during such term,
  2. during the term of the repurchase agreement, the price risk associated with the securities shall be borne by the repo seller;
- c. «reverse repo» means a repo from the perspective of the lender;
- d. «repo interest» means the difference between the selling price and purchase price of the securities.

**Art. 11** Principles

<sup>1</sup> The fund management company or SICAV may conclude repurchase agreements in its own name and for its own account with a counterparty («principal»).

<sup>2</sup> It may appoint an intermediary to conclude repurchase agreements with a counterparty either indirectly on a fiduciary basis («agent») or directly («finder»), in accordance with the provisions of this section.

<sup>3</sup> The fund management company or SICAV shall conclude a standardised framework agreement governing repurchase agreements with each counterparty or intermediary in accordance with Article 17.

<sup>3</sup> SR 951.311

**Art. 12** Authorised counterparties and intermediaries

<sup>1</sup> The fund management company or SICAV shall conduct repurchase agreements exclusively with first-class supervised counterparties and intermediaries that specialise in these types of transactions, such as banks, brokers and insurance companies, as well as licensed and recognised central counterparty clearing houses and central securities depositories that can guarantee the execution of transactions in a due and proper manner.

<sup>2</sup> The fund management company or SICAV must obtain the written consent of the custodian bank if the latter is not to be involved in the repurchase agreement as either counterparty or intermediary.

<sup>3</sup> The custodian bank may only deny its consent if there is no guarantee that it can meet its statutory and contractual duties with regard to settlement, safekeeping, provision of information, and control.

**Art. 13** Securities eligible for repurchase agreements

<sup>1</sup> For repo transactions, the fund management company or SICAV may use all types of securities that are traded on a stock exchange or other regulated market open to the public.

<sup>2</sup> For repo purposes, it may not use securities acquired under a reverse repo.

**Art. 14** Termination dates and notice periods

<sup>1</sup> It must be possible to terminate individual transactions and the standardised framework agreement for the repurchase transaction at any time.

<sup>2</sup> Where the observation of a notice period has been agreed, such period may not exceed seven banking days.

**Art. 15** Scope and duration of the repo

<sup>1</sup> If the fund management company or SICAV must observe a notice period before it can again have legal control of the securities under the repurchase agreement, it may not use more than 50 percent of its holdings of a particular security eligible for repo transactions.

<sup>2</sup> If, however, the counterparty or intermediary provides the fund management company or SICAV with a contractual guarantee that the latter may again have legal control of the securities under the repurchase agreement on the same or following banking day, its entire holding of a particular security eligible for repo transactions may be used.

**Art. 16** Securing claims for money and securities

<sup>1</sup> In order to secure claims for money and securities arising from repurchase agreements, the claims and obligations must be valued daily at the current market price, taking account of accrued interest and the income due to the borrower, and the difference must be marked to market daily.