

Securities Regulation: Selected Statutes, Rules, and Forms, 2021 Edition (Supplements)

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□□□, 2007-02-14 2002 *Securities Regulation* , 2005 **Erwerb eigener Aktien** Ralf Koschmieder, 2000-05-03

Inhaltsangabe Einleitung Der Erwerb eigener Aktien ist in Deutschland von einer wechselvollen Geschichte geprägt Mit der Notverordnung aus dem Jahre 1931 kam es zu einem fast lückenlosen Verbot des Erwerbs eigener Aktien was in der Folgezeit als wichtige Errungenschaft des modernen Rechts der Kapitalgesellschaft angesehen wurde Auch bei der Umsetzung der Kapitalmarkttrichtlinie im Jahre 1978 kam es zu keiner Lockerung des Verbots obwohl Art 19 I der Richtlinie Spielraum für eine Liberalisierung gibt Begründet wurde dies damit dass schon wegen des zweifelhaften Wertes den die Möglichkeit des Erwerbs eigener Aktien ganz allgemein hat von dieser Möglichkeit der Richtlinie im deutschen Recht nicht Gebrauch gemacht werden sollte In der Folgezeit beschäftigte man sich vor allem im juristischen Schrifttum verstärkt mit dem Erwerbsverbot wobei die bisherige gesetzliche Regelung in zunehmenden Maße kritisiert wurde und man eine begrenzte Erlaubnis des Erwerbs anregte Die betriebswirtschaftliche Literatur schenkte diesem Thema bislang wenig Aufmerksamkeit was auf die bisherige Bedeutungslosigkeit auf Grund des Verbotes zurückzuführen sein mag Dies änderte sich mit der Liberalisierung des Aktienrckerwerbs durch das Inkrafttreten des Gesetzes zur Kontrolle und Transparenz im Unternehmensbereich KonTraG am 27 April 1998 Der Schwerpunkt der Arbeiten konzentrierte sich jedoch vorwiegend auf die steuerlichen und bilanziellen Auswirkungen des Erwerbs Die vorliegende Diplomarbeit untersucht die Probleme Verfahren und Auswirkungen des Erwerbs eigener Aktien Zur Erkenntnisgewinnung bedient sich der Verfasser der Arbeit des Vergleichs der amerikanischen und der deutschen Finanzierungspraxis Die Wahl des amerikanischen Systems geschah dabei vor folgendem Hintergrund Die amerikanische Finanzierungspraxis beherrscht die internationalen Finanzmärkte auf welche deutsche Aktiengesellschaften immer mehr angewiesen sind In den USA gibt es umfangreiche empirische Untersuchungen welche die Auswirkungen des Erwerbs eigener Aktien beschreiben Weltweit werden in keiner Region mehr eigene Aktien als in den Vereinigten Staaten erworben Gang der Untersuchung Theoretische und empirische Untersuchungsergebnisse welche sich auf den amerikanischen Markt beziehen lassen sich jedoch nicht problemlos auf Deutschland übertragen Die Arbeit ist deshalb so aufgebaut dass im ersten Teil die wirtschaftlichen und rechtlichen Rahmenbedingungen der beiden **Corporate Practice Series** , 1978

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