

# Update

## Newsflash April 2017

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### Amendments of certain SIX Swiss Exchange Regulations as of 1 May 2017

The Regulatory Board of the SIX Swiss Exchange informed in its communiqué dated 31 March 2017 about various amendments of SIX Swiss Exchange Regulations which will enter into effect on 1 May 2017. Some of these changes are material, while others are of editorial nature.

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#### I. Overview

With effect from 1 May 2017, the SIX Swiss Exchange (SIX) has amended certain regulations of the SIX Exchange Regulation (SER). The amendments notably relate to the following:

- › the listing of collective investment schemes;
  - › data processing by SIX;
  - › the Additional Rules for the Listing of Bonds;
  - › the Additional Rules for the Listing of Derivatives; and
  - › certain SIX Regulations.
- › The prospectus for the *listing of collective investment schemes* approved by FIMNA will no longer have to be supplemented by the additional technical trading information (such as the Swiss Security Number/ISIN, the paying agent, information on the NAV performance for the past three years). In the future, such information will have to be included in the relevant Official Notice. Accordingly, Article 110 (2) and (3) revLR will be deleted.
  - › The new Article 8a revLR provides for the authorization of the SIX to outsource *data processing* and other services (such as IT and back-office functions) to group companies of SIX Group Ltd., as well as to external third parties.

Some of these amendments are material, while others are of purely editorial nature. They aim to eliminate recognized and unjustified differences between the various regulations, to codify the practice of the SER in individual areas, and to take into account the market developments. The amended regulations will enter into effect on 1 May 2017.

#### II. Amendments

The amendments relate to the following regulations and directives of the SIX:

##### 1. Listing Rules (LR)

The two amendments to the LR are as follows:

##### 2. Additional Rules for the Listing of Bonds (ARB)

The main changes to the ARB are as follows:

- › The listing prospectus does no longer have to contain the issuer's financial statements, provided that a guarantee commitment pursuant to the SIX Directive on Guarantee Commitments is in place (Article 9 revARB). Under the same conditions, the annual reporting duties will only apply to the guarantor (Article 30 (3) revARB).

- › A stand-alone prospectus may also be produced as part of an issuance program which has not yet been approved by the competent foreign authority (Article 15 (3) revARB).
- › In the case of a listing of bonds issued by foreign regional authorities, the information on the issuer/guarantor must be included in the listing prospectus to the extent that such information is available (Article 20 (2) revARB).
- › Article 25 revARB clarifies that the disclosure and procedural obligations laid down in the LR also apply to a potential guarantor, and exemptions from such requirement must be applied for in the relevant listing application (deletion of paragraph 2 of Article 25 revARB).
- › With respect to bonds that are not denominated in CHF, the draft consultation stated that the principal paying agent does not have to be located in Switzerland. This provision has not been included in the revARB. Thus, for such bonds at least one paying agent in Switzerland must be appointed.

### 3. Additional Rules for Listing of Derivatives (ARD)

The main changes to the ARD are as follows:

- › The requirement of minimum capitalization of CHF 1 million for the listing of derivatives has been abolished (deletion of Article 12 revARD).
- › No obligation of the issuer to include annual financial statements of the issuer in the listing prospectus (Article 10 revARD) and to annual reporting (Article 36 (3) revARD), if a guarantee commitment pursuant to the SIX Directive on Guarantee Commitments is in place.

### 4. Further Amendments to SIX Directives

In addition, the following directives of the SIX have been selectively amended:

- › **Directive on the Procedures for Equity Securities (DPES):** In principle, the submission deadline for a listing application will be 10 trading days if there is no obligation to prepare a listing prospectus (Article 4 (5) revDPES).
- › **Directive on the Procedures for Debt Securities (DPDS):** Article 3 (2) revDPDS codifies the current practice of the SER according to which exemptions and applications for preliminary decisions are to be decided within 20 trading days after filing.
- › **Directive Delisting (DD):** Derivatives and ETPs may be delisted upon request if (1) the issuer maintains all affected derivatives or ETPs on its own books and the delisting therefore does not violate any investor-protection rights, or (2) in case there is "open interest" (a) all investors holding relevant derivatives or ETPs in their safekeeping accounts have been notified of the intended delisting and are in agreement with it, or (b) the announcement of delisting is made three months prior to the last trading day in accordance with the terms and conditions of the derivatives/ETFPs (Article 6 seqq. revDD).
- › **Directive on Financial Reporting (DFR):** The financial reporting of mortgage credit institutes which have issued debt securities is subject to the special law provisions that apply to such institutes (Article 7 (2) revDFR).

The new Swiss Financial Services Act (FinSA), which is currently being debated by the Swiss Parliament, will soon make necessary a complete overhaul of all regulations governing the listing of securities of the SIX. Lenz & Staehelin will inform about further developments. Please do not hesitate to get in touch with us in case of any questions.

**Legal Note:** The information contained in this UPDATE Newsflash is of general nature and does not constitute legal advice. In case of particular queries, please contact us for specific advice.

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