



**COMMUNIQUÉ NO. 5/2010
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Directive on the Form of Securities (DFS)

Specification of the wording of Art. 15 para. 2 (precautions with regard to the printing of individual securities certificates)

I. BACKGROUND

Art. 15 Directive Form of Securities states, in the case of bonds and derivatives that are listed on SIX Swiss Exchange and certificated in the form of permanent global certificates, that specific contractual precautions must be taken to permit the printing of individual certificates. This provision is essentially intended to protect investors, since it may not be possible under all legal systems to enforce a claim for which no individual certificate exists. It is designed to ensure that investors are always in a position to assert their claims against the issuer in accordance with the applicable system of law.

Investors themselves do not have the right to order that certificates be printed, however. Under Art. 15 para. 2 Directive Form of Securities, the printing of certificates and their delivery to investors is exclusively reserved to the lead manager or the main paying agent.

II. SPECIFICATION OF THE WORDING OF ART. 15 PARA. 2 OF THE DIRECTIVE ON THE FORM OF SECURITIES

Whether or not securities certificates must be printed in order for investors to assert their rights against the issuer is in all cases determined in accordance with the applicable law at the issuer's domicile. Consequently, the legal system that applies to the issuer determines whether and, if appropriate, which precautions about the possible printing of individual certificates should be agreed in the terms and conditions of the security. With this in mind, the case of issuer insolvency that is mentioned in Art. 15 para. 2 Directive Form of Securities is just one example of a situation in which physical certificates might be required to protect investor rights. This provision is not mandatory, however, because the existence of a physical certificate may be irrelevant to the assertion of a claim. In most legal systems nowadays, a credit entry in the investor's custody account statement, for example, is recognised as sufficient proof of a creditor claim. There is thus no need to agree the printing of individual certificates in the event of insolvency.

Provision may nonetheless be made in the applicable security terms and conditions for printed certificates under other circumstances, for example to ensure that investor transactions can continue to be settled properly and on normal market terms even if the collective safe custody organisation becomes insolvent. Such a precaution also protects investor rights and

may therefore also be included in the terms and conditions. In these cases as in others, the printing of individual certificates must be free of charge to investors (Art. 15 para. 3 Directive Form of Securities).

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