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19 July, 2017

Via e-mail: [cgvernehmlassung@six-group.com](mailto:cgvernehmlassung@six-group.com)

Dr. Katharina Rudlinger  
Head, Corporate Disclosure  
SIX Exchange Regulation  
SIX Swiss Exchange Ltd.  
Seinaustrasse 30  
CH-8001 Zurich

Re: Consultation on Proposed Changes to Corporate Governance Disclosures

Ladies and Gentlemen:

Institutional Shareholder Services Inc. ("ISS") appreciates the opportunity to submit comments to SIX Swiss Exchange Ltd. ("SIX") on proposed changes to corporate governance disclosure regulations.

By way of background, ISS was founded in 1985 with the goal of promoting good corporate governance and facilitating active ownership on the part of institutional investors. Today, ISS is a recognized global leader in corporate governance and responsible investment, providing the broadest research coverage in the industry, extensive experience in policy development, sophisticated data and analytical tools, and end-to-end proxy voting and distribution solutions. Since its inception, ISS has worked with a broad cross-section of stakeholders to provide expert guidance and leading solutions that help shareholders manage environmental, social, and governance (ESG) risk and drive value. ISS has expanded its offerings over the years to include data, screening, and analytical tools to support investment decision-making and idea generation.

ISS Corporate Solutions, Inc. ("ICS"), a wholly-owned subsidiary of ISS, provides corporations with tools and services to help them effectively manage, benchmark and enhance their governance practices. We believe that ICS' work with companies typically results in enhanced governance/compensation practices and disclosures and thus is aligned with investor interests. Founded in 1997, ICS works independently of ISS and has operated as a separate subsidiary since 2006.

As the leading global provider of corporate governance research, voting recommendations, and voting services to institutional investors, we place primary importance on conducting our business in a transparent and responsible manner.

We read with concern SIX's 2 June, 2017, announcement regarding a consultation that could require Swiss corporations to make public disclosures regarding the name and domicile of any proxy advisory firm from which it receives consulting services as well as the fees paid for those services. For the reasons outlined below, we believe the proposed rule is both unnecessary and harmful as it could undermine the manner in which ISS currently works to mitigate the potential conflict between the core business of ISS in servicing its institutional investor clients and the work that ICS does with corporations. Moreover, we believe the impetus for the proposed disclosure changes are likely based on misconceptions about, and a misunderstanding of, ISS' business model recently appearing in Swiss media.

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## **Proposed Changes to Corporate Governance Disclosures are Unnecessary**

By way of background, as an investment adviser registered with the U.S. Securities and Exchange Commission since 1997, ISS complies with the regulatory reporting, client disclosure, insider trading, code of ethics, compliance procedures, recordkeeping, advertising, pay-to-play and other aspects of the Advisers Act regime applicable to investment advisers who supply research to investors. At the heart of our regulatory compliance program is a deliberate, carefully crafted, routinely tested and periodically updated series of measures designed to eliminate, or manage and disclose conflicts of interest.

ISS addresses conflicts, first and foremost, by being a transparent, policy-based organization. Our use of a series of published voting policies provides a very practical check and balance that ensures the integrity and independence of ISS' analyses and vote recommendations. While these policies allow analysts to consider company- and market-specific factors in generating vote recommendations, the existence of a published analytical framework, coupled with the fact that vote recommendations are based on publicly-available information, allows ISS clients to continuously monitor the integrity and consistency of ISS advice.

Furthermore, ISS has undertaken a comprehensive risk assessment to identify specific conflicts of interest related to its operations and has adopted compliance controls reasonably designed to manage those risks. One of the primary components of our compliance program is the Code of Ethics which prescribes standards of conduct for ISS and our employees. The Code of Ethics affirms ISS' fiduciary relationship with our clients and obligates ISS and our employees to carry out their duties solely in the best interests of clients and free from any compromising influences and loyalties. The Code emphasizes the requirement that all research for clients be rendered independently of employees' personal interests.

## **Strict Separation Between ISS Research And ICS Ensures Objectivity and Independence of ISS Research**

Another key component of ISS' compliance program is the firewall maintained between ISS' core business serving institutional investors and the work that ICS does with corporations. This firewall includes the physical and functional separation between ICS and ISS, with a particular focus on the separation of ICS from the ISS Global Research team. A critical objective of the firewall is to keep the ISS Global Research team from learning the identity of ICS' clients, thereby helping to ensure the objectivity and independence of ISS' research process and vote recommendations. The firewall mitigates potential conflicts via several layers of separation:

- ICS is a separate legal entity from ISS.
- ICS is physically separated from ISS, and its day-to-day operations are separately managed.
- ISS Global Research team works independently from ICS.
- ICS and ISS staff are forbidden to discuss the identity of ICS clients.
- Institutional analysts' salaries, bonuses and other forms of compensation are not linked to any specific ICS activity or sale.
- ICS explicitly tells its corporate clients and indicates in their contracts that ISS will not give preferential treatment to, and is under no obligation to support, any proxy proposal of an ICS client. ICS further informs its clients that ISS' Global Research team prepares its analyses and vote recommendations independently of, and with no involvement from, ICS.

## **ISS Investor Clients Currently Have Access To The Identity Of ICS Clients Providing Transparency**

As noted in the 2 June, 2017 letter from SIX to Swiss corporations, the ostensible purpose of the proposed disclosure change is to increase "transparency regarding the independence of proxy advisors for investors." However, investors subscribing to ISS' research and recommendations already have access to this information and it is provided to them in a way that is designed to protect and preserve the firewall described above. Specifically, ISS' institutional clients are

already entitled to receive information about the identity of all ICS clients, the products/services purchased by those clients and the fees paid for those products/services. In support of the key objective of preventing members of ISS' Global Research team from learning the identity of ICS' clients, the information about ICS' clients is made available to ISS' investor clients in a confidential manner through ISS' Compliance department and also through an access-limited section of ProxyExchange, the client-facing platform used by ISS' investor clients. We are concerned that SIX's proposed new disclosure requirement will put information about ICS' clients in the public domain, thereby undermining our goal of preventing members of the Research team from knowing the identity of the ICS clients while providing no corresponding benefit to the investors who use ISS' research and who already have access to this information.

We believe the foregoing clearly illustrates the measures we have taken to ensure the integrity and independence of the research and vote recommendations that we provide to our institutional investor clients, including the disclosure features which enable our investor clients to fully and carefully assess the nature and extent of ICS' client relationships relative to ISS' research and voting recommendations for any given corporate issuer. I should add that it is our firm belief that our obligation to provide for such visibility is solely to our clients. Institutional investors who are not subscribers to ISS' research and would not permissibly have access to ISS' vote recommendations do not require this information.

We hope that SIX and its Issuers Committee will consider the above and not adopt an approach that would, ironically, have the effect of undermining the procedures we have put in place to protect the investors that SIX is seeking to safeguard.

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### **Correcting Factual Inaccuracies and Contradictions Regarding ISS' Business Model Which Have Appeared In Select Swiss Press Outlets**

Some quarters of the Swiss press have erroneously reported that corporations paying ICS for advisory services receive favorable treatment from ISS' Research group and/or guaranteed passage of their proposals. For the record, this is wholly untrue.

A recent article featured in *TagesAnzeiger* on 28 April, 2017, contains several misstatements about ISS and I believe it important for ISS to set the record straight.

1. The article includes a number of false assertions from commentators who suggest that companies receive more extensive access to ISS Research analysts by virtue of being an ICS client. This is simply not the case, and as noted above is not even possible given that members of the Research team are unaware of the identity of ICS' clients.
2. The article also incorrectly states that the ISS Research team has just two analysts covering the Swiss market. In fact, the core team covering Switzerland includes five analysts who between them have multiple advanced degrees and more than 30 years of collective experience at ISS and longer in the financial services industry. All five members of the team speak German and English with French and Italian also spoken fluently by specific analysts. Additional staff are brought in to assist with and support special situations-related research, such as proxy contests and mergers and acquisitions.

Interestingly, while being highly and erroneously critical of ISS, the *TageAnzeiger* article paradoxically confirms that there is not a "pay-to-play" element associated with the ICS business. The article cites the case of a supposed ICS client who received ISS vote recommendations "against" management's position. While ISS will not publicly confirm the identity of an ICS client, consistent with the firewall described above, if the company identified in the article were, in fact, an ICS client and received an ISS vote recommendation contrary to its interests, this would clearly demonstrate that



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the company received no preferential treatment from ISS and would underscore the separation we impose between ISS and ICS.

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We appreciate the opportunity to provide comments. We would be glad to discuss our concerns further and/or respond to any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "SF", is placed over a light blue rectangular background.

Steven Friedman  
General Counsel  
Institutional Shareholder Services Inc.