

Zurich, 11 December 2014

**Report on the consultation for the revision of the regulatory standards***1. Background information and summary of statements*

On 9 October 2014, SIX Exchange Regulation ("SER") carried out a limited consultation on a conceptual basis with selected market participants (in particular issuers and recognized representatives). In addition to a few queries made by telephone, a total of six written statements were received by SER. Credit Suisse and UBS confirmed their agreement with the intended changes. The Swatch Group, Zürcher Kantonalbank, Swiss Holdings and Bär & Karrer issued substantial statements on the planned change.

The statements can be read in full on the website [http://www.six-exchange-regulation.com/regulation/news\\_de.html](http://www.six-exchange-regulation.com/regulation/news_de.html). In summary, the aforementioned market participants issued the following opinions.

1. The Swatch Group

The Swatch Group suggested that other accounting standards, such as Canadian GAAP or IFRS for SMEs should also be permitted. In addition, it believes that the sub-standards should not be sub-divided based on accounting standards, but instead on the business activity of an issuer, and that it should also be possible to delegate certain supervisory activities to foreign authorities.

2. Zürcher Kantonalbank

Zürcher Kantonalbank would like to retain the track record of two years with respect to the National Reporting sub-standard. Under all standards, equity capital of at least CHF 25 million should continue to be required. The question over a potential obligation to produce a listing prospectus when changing regulatory standards should be subject to an explicit transitional rule.

3. Swiss Holdings

In principle, Swiss Holdings agrees with the planned changes. It believes, however, that the name "National Reporting Standard" gives the impression that it is largely aimed at local companies.

4. Bär & Karrer

In principle, Bär & Karrer agrees with the planned changes. However, it also believes that the name "National Reporting Standard" represents a veiled value judgement. It therefore proposes to do away with the differentiation between International and National Reporting Standards and to define the applicable accounting standard in a fact sheet. In terms of the thresholds, it believes that a market capitalization of CHF 25 million and the track record of three years are too high in the National Reporting Standard.

## 2. *Appraisal by Issuers Committee ("IC") / SER*

On Friday, 28 November 2014, SER presented the statements it had received to the IC. The results of this discussion can be summarized as follows:

### Admission of other accounting standards

When discussing the admission of other accounting standards, such as Canadian GAAP or IFRS for SMEs, it should be noted that the possible accounting standards available for issuers domiciled in Switzerland is defined in Art. 1 of the Ordinance on Recognized Accounting Standards (ORAS, SR 221.432). In this respect, Federal law stipulates that the stock exchange cannot specify additional standards as it pleases. It would therefore only be possible to permit these standards for foreign issuers. It should be noted here that the International Accounting Standards Board has expressly stated that IFRS for SMEs is not suitable for listed companies. With regard to Canadian GAAP, even Canada no longer recognizes this standard for listed companies, for which it instead requires IFRS. It would therefore be inappropriate to recognize other standards for foreign companies. From the perspective of IC/SER, such an expansion into local foreign GAAP would be problematic with regard to implementation and enforcement.

### Business activity as defining criteria

Sub-dividing the standards based on the business activity of the issuer would require considerable resources (regular monitoring), would give rise to difficult questions regarding differentiation and would most likely be met with questions/resistance from issuers when making the sub-divisions. While it is true that such a sub-division by business activity already occurs with the standard for investment and real estate companies, this makes sense for these two specific business areas as they are both fundamentally different from other lines of business and the requirements regarding listing prospectuses and accounting are structured differently. From the perspective of the IC/SER, to sub-divide other sectors (e.g. financial services, industry etc.) would make little sense as from a regulatory perspective, such a differentiation is unnecessary and – as mentioned above – could lead to difficult questions regarding differentiation. In view of the requirements for accounting standards in EU regulated markets (i.e. for reasons of equivalence), the sub-division based on accounting standards will be retained. In this regard, the International Reporting Standard should be most closely aligned with EU regulations (only IFRS and EU IFRS permitted). This alignment of regulations should also be viewed in light of Art. 8 para. 3 of the Federal Act on Stock Exchanges and Securities Trading (SESTA, SR 954.1), under which stock exchange regulations must take into account internationally recognized standards.

### Delegation of competencies to foreign authorities

From the perspective of the IC/SER, a ruling based on an international treaty would be required in order to delegate competencies to foreign authorities. This would be a long and complicated process, which is why it is not being looked at further.

### Naming

Various participants that took part in the consultation suggested that the term "National Reporting Standard" still represents a certain value judgement. This deficiency in the proposed concept was recognized and as such, the "National Reporting Standard" sub-standard will now be called the "Swiss Reporting Standard". This addresses the criticism in this regard as accounting under Swiss GAAP FER represents "Swiss Reporting", which does not contain a veiled value judgement or have an association with local requirements.



#### Track record

The IC and SER are aware that an increase to the track record results in an extension of financial reporting to three years. Nevertheless, it should be mentioned here that based on experience from IPOs in recent years, the provision of three years' financial figures has never been a problem. Furthermore, most foreign exchanges also require a three-year track record and therefore three years' financial reporting. In terms of the cost argument, in SER's view and experience, it is not the restatement of an additional year's financial statements that is a costly exercise, but instead the actual switch to an accounting standard recognized by regulators. For these reasons, the track record of three years and the associated financial reporting for three years in the listing prospectuses will be retained.

#### Equity capital

In terms of capital adequacy requirements, the market is largely agreed that in practice, equity capital is of secondary importance as when a company is being listed, it is the actual market capitalization that matters and not equity capital. The IC and SER share this view and will therefore retain the threshold of CHF 2.5 million. This is also in consideration of the regulations for foreign exchanges.

#### Market capitalization

In terms of the objections to excessive market capitalization requirements, the market is largely agreed that there are almost no IPOs for market capitalizations of less than CHF 100 million. This also matches the view of SER. For this reason, the threshold of CHF 25 million (market capitalization of distributed securities) will be retained.

#### Transitional provisions

Under current regulations, a prospectus does not have to be issued when changing the regulatory standard from the Domestic Standard to the Main Standard or vice versa, as the requirements as per the prospectus scheme are unchanged in this case. The only cases where a prospectus is required is when changing from the Main Standard to the standard for investment companies and/or real estate companies, as these standards involve other prospectus requirements. In future, there will be no changes in this respect, i.e. a prospectus will not be required when changing from the International Reporting Standard to the Swiss Reporting Standard and vice versa. The IC and SER therefore do not consider it necessary to issue transitional provisions on this issue.

### *3. Conclusion and next steps*

In summary, SER will implement the proposals from the consultation on 9 October 2014 into the corresponding regulations. As part of this, the National Reporting Standard will be renamed the Swiss Reporting Standard. The implementation of these changes will result in changes to the following regulations: Listing Rules (LR), Additional rules bonds (ARB), prospectus schemes; Directive Track Record (DTR), Directive Procedures Equity Securities (DPES), Directive Financial Reporting (DFR), poss. Directive Complex Financial History (DCFH). A further consultation on these changes to the regulations is not planned. In terms of timing, the changes are scheduled to enter into force as at 1 July 2015, after they have been approved by the responsible committees and regulatory authorities.

Should you have any questions, please contact Matthias Portmann, Legal Counsel:

T +41 58 399 2916; M +41 79 879 4053

Matthias.Portmann@six-group.com