

## **Violation of the General Conditions and Directives of SIX Swiss Exchange and Scoach Schweiz AG**

### **Decision:**

The Sanction Commission has established that the participant X has violated sections 3.34 and 3.36 of the General Conditions of SIX Swiss Exchange (GC SIX) in conjunction with sections 2 and 3.2 of Directive 10 of SIX Swiss Exchange as well as sections 2.33 and 2.35 of the General Conditions of Scoach Schweiz AG (GC Scoach) and sections 2 and 3.2 of Directive 10 of Scoach Schweiz AG (Scoach) by incorrectly reporting the agreed time of 132 off order book trades in the first quarter of 2008. A reprimand is issued to X. The costs of the procedure in the amount of CHF 9'000 are charged to X.

### **Reasons for decision:**

1. According to sections 3.34 and 3.36 GC SIX and sections 2.33 and 2.35 GC Scoach, the participants are obliged to report all on order book and off order book trades that they execute in Swiss and foreign securities which are admitted to trading on a Swiss stock exchange. The report must entail the exact time of the transaction (section 2 lit. f of Directive 10 of SIX Swiss Exchange / Scoach). According to section 3.36 para. 2 GC SIX and section 2.35 para. 2 GC Scoach as well as SIX Swiss Exchange / Scoach Directive 10 off order book securities trades that are generated during trading hours and not automatically recorded in the Exchange System must be reported within thirty minutes of their execution. The Agreed Time must be reported to SIX Swiss Exchange or to Scoach as CET ("Central European Time").
2. The Surveillance and Enforcement Office of SIX Swiss Exchange (SVE) submitted to the Commission an application for issuing a reprimand to X for violation of these rules. Analyses revealed that X reported a total of 555 off order book trades in the first quarter of 2008. Of these trades, 132 were reported late, 9 to SIX Swiss Exchange and 123 to Scoach. The majority of the reported off order book trades were reported approximately one hour (about 80 trades), about 23 trades were reported 24 hours after the execution of the transaction.
3. X stated that its systems were set to "Greenwich Mean Time" (GMT) rather than to "Central European Time" (CET) and off order book trades were reported manually as Reported Trades or Trade Confirmations. The mechanism used to report off order book trades requires the traders of X to adjust the time to CET. However, the traders did not make all the necessary manual adjustments. This would explain the one-hour difference where the reporting deadline was concerned. But this statement does not explain the differences of one day or more.
4. X stated that it had informed the traders confronted with these irregularities and ordered them to comply with the rules and regulations of SIX Swiss Exchange and Scoach, in particular with regard to reporting obligations. X also assured SVE that steps had been taken to prevent irregularities. It is, however, obvious that X did not ensure compliance with the reporting deadline in these cases.
5. X did not dispute the alleged violations of reporting obligations, agreed with the findings and accepted the reprimand and costs awarded against it. Thus, it is established that X violated its obligations according to sections 3.34 and 3.36 GC SIX and sections 2 and 3.2 of the Directive 10 of SIX Swiss Exchange and sections 2.33 and 2.35 GC Scoach and sections 2 and 3.2 of Directive 10 of Scoach in the first quarter 2008.
6. If a participant violates the rules and regulations, SIX Swiss Exchange and Scoach set sanctions ranging between a reprimand and a fine of up to CHF 10 millions. In order to set a sanction, SIX Swiss Exchange and Scoach take into account the gravity of the offence and the degree of fault (section 1.29 GC SIX and 1.24 GC Scoach).

X did not ensure that sufficient checks were conducted in this regard. But this violation as such was not severe. Sanctions have not been imposed on it in the relevant three years period set by section 2.6 of the Rules of Procedures of SIX Swiss Exchange. X has instituted organisational measures to prevent further breaches of this kind. There is therefore sufficient reason to believe that, in the future, X will take care to prevent any further violation of the rules and regulations of SIX Swiss Exchange and Scoach.

According to the application for a sanction submitted by SVE, the Commission issues a reprimand. There is no need to disclose this sanction to the public. Nevertheless, in order to give guidance to the participants, SIX Swiss Exchange and Scoach may publish sanctions in a completely anonymous form on the website of SIX Swiss Exchange.

7. According to the Rules of procedures of SIX Swiss Exchange, the costs of the procedure of CHF 9'000 (CHF 5'000 for SVE, CHF 4'000 for the Commission) are imposed to X.

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(Original text)