

ADMISSION BOARD COMMUNIQUÉ NO. 17/2006 OF 21 DECEMBER 2006

Amendments to the rules and regulations for the SWX “EU-Compatible” Segment in the context of the EU Transparency Directive

IMPORTANT NOTES

The content of this Communiqué is of provisional nature and is based on the rules regarding the SWX “EU-Compatible” Segment that have not been formally approved yet. As neither the EU nor the United Kingdom, which is the home Member State for most of the issuers whose securities are listed on the SWX Swiss Exchange and admitted to trading on the EU Regulated Market Segment on virt-x, have formally issued their final rules for the transposition of the Transparency Directive, **further amendments to the rules of the SWX may not be excluded.**

The issuance of the final SWX-rules and, as the case may be, further amendments will be **communicated in another Admisson Board Communiqué.**

I. BACKGROUND

Since July 2005 a new segmentation concept exists for securities listed on the SWX Swiss Exchange and admitted to trading on virt-x (i. e. for the current and some former SMI-securities). The equity securities that are listed on the SWX “EU-Compatible” Segment must be admitted to trading in the EU Regulated Market Segment on virt-x – in other words on a “regulated market” as defined in the EU capital market regulations. The securities listed on the SWX Main Segment are on the other hand admitted to trading in the UK Exchange Regulated Market Segment on virt-x.

The Transparency Directive¹ introduces new obligations for issuers of securities which are admitted to trading on regulated markets in the EU. The Member States of the EU must transpose the Transparency Directive into their national legislation by 20 January 2007. The SWX has made the corresponding amendments to the rules and regulations which apply to the SWX “EU-Compatible” Segment.

1) EU Directive 2004/109/EC on the harmonization of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (“Transparency Directive”).

II. THE KEY CHANGES AT A GLANCE

The Transparency Directive introduces new rules in the following areas:

- periodic reporting
- ongoing reporting obligations
- disclosure of shareholdings
- notification and storage obligations

The new rules have been incorporated into the Additional Rules for the Listing on the SWX "EU-Compatible" Segment (AR EU) and the Directive on the Requirements for Maintaining Listing on the SWX "EU-Compatible" Segment (DMEU). The DMEU replaces the current Directive on Issuer-Related Obligations Pursuant to Art. 23 of the Additional Rules for Listing on the SWX "EU-Compatible" Segment.

1. Periodic reporting

The requirements of the AR EU and the DMEU regarding the periodic reporting are applicable as of their entry into force. However, to issuers whose home Member State applies the periodic reporting requirements of the Transparency Directive for the first time to financial years commencing **on or after 20 January 2007**, the periodic reporting requirements of the DMEU are also applicable for the first time as of this moment. **This is applicable to issuers with the United Kingdom as their home Member State.** Therefore an issuer with home Member State United Kingdom and whose reporting year runs from January to December will have to apply the new rules on periodic reporting for the first time in 2008. Until then, the rules on periodic financial reporting which are laid down in the Directive on Requirements for Financial Reporting will continue to apply.

The new rules of the DMEU contain the following changes:

- the **half-yearly financial report** must be **published** within **two months** of the closing of the half-year period (ref. no. 5 DMLEU);
- **interim management statements** must be published if the issuer does not publish quarterly financial reports (Art. 24 AR EU);
- requirements concerning the **content of management reports** in the annual and half-yearly financial reports, i.e. the obligation to produce an MD&A (ref. nos. 4 and 6 DMLEU);
- annual and half-yearly financial reports must remain **publicly available for five years** after publication (ref. no. 8 DMLEU); and
- in the half-yearly financial report, as the case may be, **the audit report must be reproduced in full**. If the half-yearly financial report has **not been audited, a statement to this effect must be made**. If a review has been conducted and if the management refers to this review in its report, the review report must also be reproduced in full (ref. no. 7 DMLEU).

2. Ongoing reporting obligations

The new ongoing obligation to disclose the following facts is being introduced:

- **changes in the rights attached to the equity securities** of the issuer as well as in the rights attached to the publicly placed **derivative securities** of the issuer (Art. 26 AR EU) and
- **the public placement of notes and bonds**, as well as the guarantees and security undertakings in respect of such notes and bonds (Art. 27 AR EU).

3. Disclosure of shareholdings

Since the Transparency Directive provides for thresholds in increments of 5% with regard to the disclosure of shareholdings, yet there is no provision under Swiss law for thresholds of 15% and 25%, an obligation to disclose the relevant shareholdings has been introduced under the provisions governing listing. All issuers of securities which are listed on the SWX “EU-Compatible” Segment must disclose shareholdings which attain, fall below or exceed the **15% or 25% thresholds**, provided such shareholdings are known to **the issuer in question** (Art. 28 para. 1 AR EU). The issuer is not required to carry out any further investigations.

Moreover, should a particular threshold (according to SESTA or AR EU) be reached in transactions with its **own shares**, the issuer now has **four days** (instead of the current six) in which to make the corresponding disclosure (Art. 28 para. 2 AR EU).

4. Dissemination and storage obligations

Under the new rules, all reports that are submitted to the SWX in compliance with Admission Board Circular No. 1, or to the Disclosure Office in compliance with SESTA, must **also be published via an “officially appointed mechanism”** of the home Member State of the issuer concerned (ref. no. 22 DMEU).

All issuers must disclose shareholdings in accordance with Art. 28 para. 1 and 2 AR EU using the **same procedure as applies to ad-hoc reports**, i.e. in accordance with Art. 72 LR and via the officially appointed mechanism of the relevant home Member State (Art. 28 para. 3 AR EU).

The relevant regulations of the home Member State must be observed in respect of information on forthcoming annual general meetings (ref. no. 20 DMEU).

All reports must also be submitted in English (ref. no. 26 DMEU).

III. THE FSA’S EQUIVALENCE RECOGNITION

The United Kingdom, which is the home Member State of the majority of issuers of equity securities listed on the SWX “EU-Compatible” Segment, has largely incorporated the regulations laid down in the Transparency Directive into the “Disclosure and Transparency Rules” (“DTR”) issued by the UK Financial Services Authority (“FSA”). The DTR sections containing the new rules of the Transparency Directive provide that the FSA may recog-

nize the requirements of non-EEA states as equivalent [anzupassen, falls die FSA nur die Äquivalenz hinsichtlich DTR 5 ausspricht!]. The FSA publishes the list of non-EEA state regulations that are recognized as equivalent.

It is expected that concurrently to the entry into force of the DTR, the rules which apply to Swiss issuers on the SWX "EU-Compatible" Segment will be recognized by the FSA as equivalent.

IV. ENTRY INTO FORCE

The amended rules and regulations are expected to enter into force on **20 January 2007**.

The revised **AR EU**, the new **DMEU** and the amended memorandum "**Regulatory Framework for Issuers**" will be supplied with the next update of the "Admission of Securities" manual. They are also accessible in English, German and French on the Internet at

http://www.swx.com/download/admission/regulation/rules/addrules_eu_compatible_en.pdf

http://www.swx.com/download/admission/regulation/guidelines/swx_guideline_20070120-1_en.pdf

http://www.swx.com/download/admission/listing/equity_market/virt-x_en.pdf

Admission Board Communiqués are accessible in English, German and French on the Internet at http://www.swx.com/admission/regulation/messages/2006_en.html