

REGULATORY BOARD COMMUNIQUÉ NO. 2/2009 OF 17 APRIL 2009

New practices for public-sector issuers and/or guarantors concerning the content of bond prospectuses

I. BACKGROUND

The Listing Rules contain **special regulatory provisions** for public-sector issuers. For example, Art. 41 LR states that Swiss regional or local authorities and dependent public-sector bodies may **omit issuer particulars** from the listing prospectus. To date, this regulation has been applied strictly to Swiss issuers and – by extension – to Swiss guarantors only. It has not been amended in itself.

According to the wording of the EU Prospectus Directive (PD), bonds which are issued or guaranteed by regional or local public authorities of the EU are not subject to the PD in the EU, i.e. they may be offered for public sale and admitted to trading/listing without a prospectus.

Art. 8 para. 3 SESTA states that the stock exchange must take international standards into account in its admission regime. EU harmonization in the PD with regard to prospectus requirements represents such a standard.

With this in mind, the Admission Board has decided that more latitude (albeit within a clearly defined framework) may be permitted in the context of the listing of bond issues involving public-sector issuers and guarantors, whether Swiss or foreign.

II. MEASURES TO SIMPLIFY THE LISTING PROCEDURE

A. The issuer is a public-sector authority

If the **issuer is a public-sector authority**, the information relating to **Point 2 of Scheme B – Bonds (information on the assets and liabilities, financial position and profits and losses)** may be omitted.

In addition, in the case of public-sector authorities **information on court, arbitral and administrative proceedings pursuant to Point 1.3.6 of Scheme B** need not be published in the prospectus. This is because the spectrum of tasks performed by public-sector bodies is very broad, and the potential for legal action is correspondingly wide. Furthermore, these proceedings often have no significant impact on the public-sector authority's credit-worthiness.

B. The guarantor is a public-sector authority

If the issue is **guaranteed by a public-sector authority** and if the **guarantee has a legal basis**, the information relating to the guarantor may now be **completely omitted** from the listing prospectus subject to the provisions set out in Chapter II C. below.

In addition, the requirement to submit a declaration pursuant to Art. 51 LR and to submit the annexes to the application pursuant to Art. 52 and Art. 53 LR is also waived.

If the guarantee does not have a legal basis, the previous practice of the Regulatory Board will be applied, whereby the information pursuant to Point 2 of Scheme B (**information on the assets and liabilities, financial position and profits and losses**) and the information pursuant to Point 1.3.6 of Scheme B (**court, arbitral and administrative proceedings**) may be omitted from the prospectus subject to Point 3 below, but not the rest of the information pursuant to Scheme B. The declaration pursuant to Art. 51 LR and the annexes to the application pursuant to Art. 52 and Art. 53 LR must still be submitted.

In all cases, the issuer of a bond issue guaranteed by a public-sector authority must still meet all obligations relating to the listing, unless it is itself a public-sector issuer as described in Chapter II A. above.

C. Scope

The application or non-application of the PD to bonds issued or guaranteed by public-sector authorities is not automatic in the EU. Its application must be determined individually by each Member State, which means that **rules differ within the EU itself**. With this in mind, Switzerland is justified in applying these **more relaxed regulations for bond prospectuses** with the aforementioned issuers or guarantors **to certain countries only**.

Consequently, only **state-level** regional and local bodies may benefit from the rules described above, i.e. they do not apply to Länder or to cantons or municipalities in Switzerland (subject to the provisions set out in Chapter II D. below). They must continue to fulfil all transparency requirements.

At present, the rules apply only to the following states (the list may be extended in due course):

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|------------|-----------------|
| –Australia | –Japan |
| –Austria | –Luxembourg |
| –Belgium | –Netherlands |
| –Canada | –New Zealand |
| –Denmark | –Sweden |
| –France | –Switzerland |
| –Germany | –Spain |
| –Ireland | –United Kingdom |
| –Italy | –USA |

D. Special regulatory provisions for German Länder

In accordance with a decision taken by the Regulatory Board, the following special arrangement applies to German Länder:

The Regulatory Board has decided that where German Länder are acting as issuers or/and as guarantors of bond issues, the requirement to publish information pursuant to **Point 2**

of Scheme B (information on the assets and liabilities, financial position and profits and losses) and pursuant to **Section 1.3.6 of Scheme B** (court, arbitral and administrative proceedings) in the prospectus may be waived on condition that the prospectus contains information on the rating of the bond issue.

The prospectus must still contain the rest of the information.

III. REPLACEMENT OF ADMISSION BOARD COMMUNIQUÉ NO. 5/2006

This Communiqué replaces Admission Board Communiqué No. 5/2006 of 15 September 2006 relating to new practices for public-sector issuers and/or guarantors concerning the content of bond prospectuses.

Admission Board Communiqués are available on the Internet in English, German and French at http://www.six-swiss-exchange.com/admission/regulation/messages/2009_en.html

