

REGULATORY BOARD COMMUNIQUÉ NO. 4/2010 OF 8 OCTOBER 2010

New regulatory standard for Exchange Traded Products (ETPs)

*Decision of the Regulatory Board of 1 October 2010
Entry into force: 15 October 2010*

I. BACKGROUND

In the wake of the update to the FINMA FAQ on structured products, the Federal Financial Market Supervisory Authority (FINMA) has announced a change to its practices: in distinguishing between structured products that are collateral-backed or have a collateral-backed guarantee, or are similar constructs from the economic perspective (such as single-issuance and multi-issuance SPVs with self-contained cells), and collective investment schemes that are subject to the Federal Act of 23 June 2006 on Collective Investment Schemes (Collective Investment Schemes Act [CISA]), FINMA will cease to classify investment products from a purely economic perspective and will now assess them on a formal, legal basis.

In view of the needs of the market, and having consulted with FINMA, SIX Exchange Regulation has decided to create a new regulatory standard for Exchange Traded Products (ETPs), and to issue the attendant regulations concerning listing and the maintenance of listing.

II. REGULATIONS AND KEY CHARACTERISTICS

The new regulations comprise the **Additional Rules for the Listing of Exchange Traded Products (ARETP)**, the related **Scheme G – Exchange Traded Products** and the **Directive on the Procedures for Exchange Traded Products (DPETP)**.

A. Additional Rules for the Listing of Exchange Traded Products (ARETP)

The Additional Rules for the Listing of Exchange Traded Products (Additional Rules Exchange Traded Products (ARETP)) state first and foremost that the ETPs they govern are **collateralised, non-interest-paying bearer debt securities** (debentures) which replicate the price trend of an underlying instrument, either unchanged or leveraged (tracker certificate). These financial products do **not** qualify as **collective investment schemes** in the sense of the CISA and therefore are not subject to the listing regulations that apply to the listing and maintenance of listing of Exchange Traded Funds (ETFs) and Exchange Traded Structured Funds (ETSFs).

Where the necessary collateral is concerned, the underlying instrument must either be deposited physically or in the form of a futures contract. Further collateralisation options are available (cf. Art. 14 Additional Rules Exchange Traded Products). The scope of the Additional Rules does not cover derivatives (certificates) which are collateralised under the COSI® scheme (collateral-secured instruments).

The Additional Rules also lay down the specific requirements that must be satisfied by ETP issuers and with regard to listing. The structure has been modified slightly compared with the existing (Additional) Rules. For example, the annex to the ARETP contains a table which specifies the obligations of ETP issuers in respect of the maintenance of listing.

B. Scheme G – Exchange Traded Products

The new "Scheme G" forms an integral part of the Additional Rules Exchange Traded Products, and lays down the minimum content of the listing prospectus.

C. Directive on the Procedures for Exchange Traded Products (DPETP)

The new Directive on the Procedures for Exchange Traded Products (Directive Procedures Exchange Traded Products (DPETP)) sets out the processes involved in listing ETPs, as well as the registration process for ETP issuance programmes.

When a product is listed, the necessary information about the issuer, the guarantor and the product in question can be given either in the form of a stand-alone prospectus, or on the basis of an issuance programme that has been duly registered at an earlier date – just as is the case with bonds and derivatives.

Unlike conventional debt securities, Exchange Traded Products must complete the full listing procedure before they can be listed or traded on SIX Swiss Exchange. There are no plans for provisional admission to trading for these products.

III. LIST OF AMENDED REGULATIONS

The entry into force of the new legal regulations for ETPs necessitates amendments to certain existing regulations. These are listed below:

- Listing Rules (LR):
Art. 2 para. 2
- Directive Track Record (DTR):
Art. 1 para. 3 and new Art. 29 Revision
- Directive Guarantee Commitments (DGC):
regulatory basis; Art. 1 para. 1, Art. 2 paras. 1 and 2, Art. 7 para. 1 and new Art. 12 Revision
- Directive Recognised Representatives (DRR):
Art. 4 para. 1 and new Art. 16 Revision
- Directive Delisting (DD):
new heading and sub-heading III; Art. 1, Art. 2, Art. 6 para. 1 and 2, Art. 7 paras. 1 and 3 points 1 and 2 lit. a, Art. 9 and new Art. 12 Revision
- Directive Financial Reporting (DFR):
Art. 7 para. 1
- List of Charges (LOC):
new points 7 and 8; points 9.1 and 9.3 and new point 11.3 Revision

IV. ENTRY INTO FORCE

The new and revised rules and regulations enter into force on **15 October 2010**.

They are available immediately on the Internet in English, German and French at:

Additional Rules:

http://www.six-exchange-regulation.com/regulation/listing_rules_en.html

Directives:

[http://www.six-exchange-regulation.com/regulation/directives/
listing_requirements_en.html](http://www.six-exchange-regulation.com/regulation/directives/listing_requirements_en.html)

List of Charges:

http://www.six-exchange-regulation.com/regulation/charges_en.html

Additional information on the new regulatory standard for Exchange Traded Products and the listing of ETPs can be found on the SIX Exchange Regulation website.

Regulatory Board Communiqués are published in English, German and French on the internet at:

[http://www.six-exchange-regulation.com/publications/communiques/
regulatory_board_en.html](http://www.six-exchange-regulation.com/publications/communiques/regulatory_board_en.html)

[http://www.six-exchange-regulation.com/publications/communiques/
regulatory_board_de.html](http://www.six-exchange-regulation.com/publications/communiques/regulatory_board_de.html)

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