

ADMISSION BOARD COMMUNIQUÉ NO. 10/2007 OF 30 OCTOBER 2007

Implementation of the Audit Oversight Act in the Listing Regulations

Revision of Arts. 6, 71a, 80 and 82 of the Listing Rules and ref. no. 15 of the Directive on the Listing of Foreign Companies

Decision of the Admission Board: 18 September 2007

Entry into force: 1 January 2008

I. BACKGROUND

The **Federal Act on the Admission and Oversight of Auditors (Audit Oversight Act, AOA)** came into force on 1 September 2007. This Act governs the admission and supervision of persons providing auditing services. It is intended to ensure that auditing services are provided properly and that they meet certain quality standards.

According to Art. 7 para. 1 AOA, auditing companies rendering auditing services to Swiss public companies must be admitted as auditing companies under state oversight. Art. 8 AOA, on the admission obligations which apply to the auditing companies of foreign public companies (and in some cases their subsidiaries, as described in Art. 8 para. 1c and d AOA), has not yet entered into force. This will take place at a later date.

The creation of the Audit Oversight Act also resulted in a **new Art. 8 para. 3^{bis}** in the **Stock Exchange Act**. This new clause requires that the **Listing Rules (LR) make the admission of equity securities and bonds contingent up on the fulfilment of Arts. 7 and 8 AOA**.

Accordingly, having conducted consultations in July 2007, the Admission Board has determined that these statutory requirements will be implemented in the listing regulations.

II. REVISED ARTS. 6, 71A, 80 AND 82 OF THE LISTING RULES AND REF. NO. 15 OF THE DIRECTIVE ON THE LISTING OF FOREIGN COMPANIES

The amended and/or new provisions of the Listing Rules are as follows:

Company law principles and requirements placed on the auditing body

New: para. 2

Provided Art. 7 or Art. 8 of the Audit Oversight Act (AOA) is applicable, the auditing body of the issuer must be admitted as an auditing company under state oversight or, as per Art. 8 para. 2 AOA, be subject to a recognised foreign audit oversight authority.

Appointment and recognition of the auditing body

Para. 1:
The issuer is obligated to appoint an auditing body that has consented to the obligations laid down in the Listing Rules, submits to the rules of sanctioning and procedure, recognises the competency of the SWX Court of Arbitration, and fulfils the provisions of Art. 6 para. 2.

Para. 2:
Upon request, the Admission Board recognises auditing bodies that fulfil the requirements laid down in para. 1. The request is to be accompanied by a written confirmation from the Federal Audit Oversight Authority attesting that the auditing body is an auditing company under state oversight.

Cancellation of listing (delisting)

New: para. 2
If the auditing body does not fulfil Art. 6 para. 2, the Admission Board shall demand that, within a reasonable grace period, the issuer appoint an auditing company as per Art. 6 para. 2. The grace period may be prolonged for important reasons. If by the end of the grace period the issuer has not demonstrated that the auditing body is admitted as an auditing company under state oversight as per Arts. 7 or 8 AOA, the Admission Board will initiate delisting proceedings.

In its proceedings, the Admission Board shall take into account any federal legal proceedings, in particular those pertaining to the Commercial Register Ordinance.

Art. 82a Sanctions imposed on auditing bodies

Point 5:
revocation of recognition

Point 6:
(cancelled)

A further change concerns the **Directive on the Listing of Foreign Companies:**

*Ref. no. 15:
Requirements applying to the issuer*

Sentences 1 and 2 (unchanged)

New: sentence 3
The requirements applying to the auditing body as per Art. 6 para. 2 LR are to be upheld for listing as well as maintaining listing.

III. PROCEDURES IN SPECIFIC CASES

A. *For issuers of equity securities*

1. *Swiss issuers of equity securities whose equity securities are listed on the SWX Swiss Exchange*

These issuers **do not need to do anything**. As evidence of compliance with the requirements of the amended Listing Rules, the Admission Board will require all **auditing bodies** which audit SWX-listed Swiss public companies to submit a copy of the provisional admission ruling from the Federal Audit Oversight Authority. This copy must reach the SWX by **31 December 2007** at the latest. Should the auditing body fail to comply with these requirements before the set deadline, the Admission Board will inform the issuers concerned and notify them that they must appoint an auditing body which satisfies the provisions laid down in law and in the listing regulations.

2. *Foreign issuers of equity securities whose equity securities have a primary or secondary listing on the SWX*

These issuers **do not need to do anything**. As soon as the date is known on which Art. 8 AOA on "special international cases" will enter into force, the Admission Board will provide information to both the issuers affected by this provision and their auditing bodies.

B. *For bond issuers*

1. *Swiss bond issuers whose equity securities are listed on the SWX*

Swiss bond issuers whose equity securities are already listed on the SWX do **not** need to report their auditing bodies separately, because they will have been reported already in connection with the issue of equity securities on the SWX.

2. *Swiss bond issuers whose equity securities are not listed on the SWX*

Swiss bond issuers whose equity securities are not listed on the SWX must complete the "Information on auditing body" form and send it to the Admission Board by **31 December 2007** at the latest. The form will be directly sent by the SWX to the issuers concerned. In addition, the issuer must submit to the SWX an additional declaration of consent from the auditing company. The wording of this declaration of consent can be called up at: http://www.swx.com/download/admission/being_public/accounting/consent_declaration_en.pdf

These bond issuers' **auditing bodies** must then submit a copy of the provisional admission ruling from the Federal Audit Oversight Authority to the SWX by **31 December 2007** at the latest. Should the auditing body fail to comply with this requirements before the set deadline, the Admission Board will inform the bond issuers concerned and notify them that they must appoint an auditing body which satisfies the provisions laid down in law and in the listing regulations.

3. *New Swiss bond issuers respectively first-time bond listings (up to 31.12.2007)*

Please consult sections 2 (1.) and 2 (2.) above.

4. *New Swiss bond issuers respectively first-time bond listings
(from 01.01.08)*

New Swiss issuers planning to list a bond on the SWX for the first time after 1 January 2008, as well as Swiss bond issuers listing a new bond on the SWX, must provide the required information in the corresponding data fields on the **Internet Based Listing** (IBL).

5. *Swiss guarantors*

Swiss guarantors of domestic or foreign bond issuers **do not need to do anything**, as Swiss bond issuers with guarantee must themselves in principle satisfy AOA requirements, and foreign bond issuers with guarantee do not yet have to implement AOA criteria.

IV. ENTRY INTO FORCE:

The amended rules and regulations were approved by the Swiss Federal Banking Commission on 15 October 2007 and enter into force on **1 January 2008**.

The printed version of these rules and regulations will be sent with the next delivery of change pages for the "Admission of Securities" manual.

The revised Listing Rules and the revised Directive are available immediately in English, German and French on the Internet at:

http://www.swx.com/admission/regulation/rules_en.html

http://www.swx.com/admission/regulation/guidelines_de.html

The Admission Board Communiqués are available on the Internet in English, German and French at http://www.swx.com/admission/regulation/messages/2007_en.html