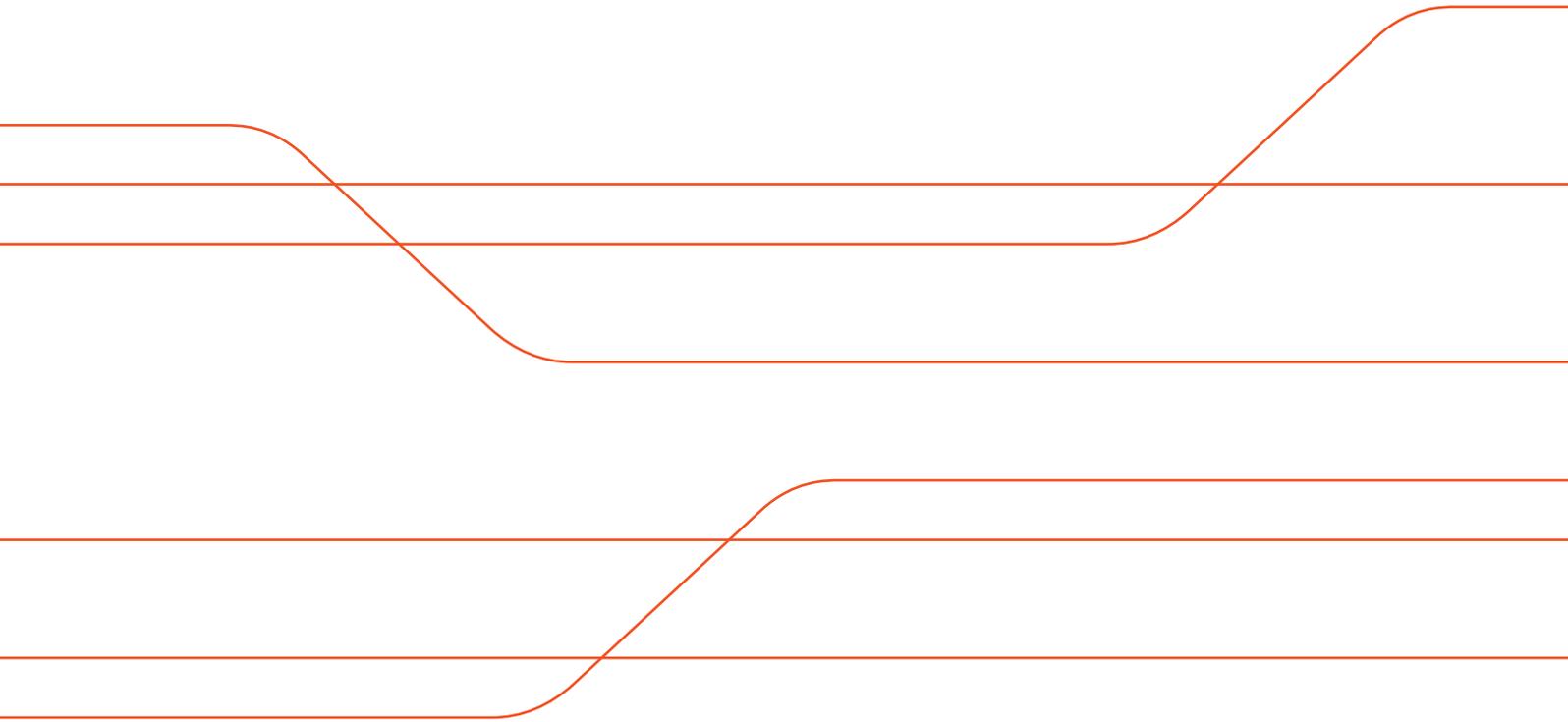


# Rules of Procedure

(Rules of Procedure, RP)

Dated 4 April 2018  
Entry into force: 1 May 2018



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# 1 Object and executive bodies

## 1.1 Object

<sup>1</sup> These Rules govern the procedure for investigating and punishing violations of the following rules and their implementing provisions that are governed by the Regulatory Bodies of SIX Group Ltd:

- a) Rules and regulations and Directives applicable to SIX trading venues;
- b) Listing Rules (LR), Additional Rules, rules and regulations governing admission to trading and their implementing provisions.

<sup>2</sup> Only those sanctions which are contained in the Rule Book, the Directives or the LR and the Additional Rules will be imposed, and only against those natural or legal persons which are subject to the rules and regulations set out in para. 1 (the "Party/Parties Concerned").

## 1.2 Executive bodies

<sup>1</sup> The investigative body with regard to violations of the Rules and regulations and Directives applicable to SIX trading venues, and their implementing provisions, is the Surveillance & Enforcement department ("Surveillance & Enforcement") of SIX Exchange Regulation Ltd ("SIX Exchange Regulation"); The Listing & Enforcement department of SIX Exchange Regulation ("Listing & Enforcement") is responsible for investigating violations of the LR, the Additional Rules and the related implementing provisions, as well as further rules and regulations concerning admission to trading.

<sup>2</sup> Sanctions are imposed by the Sanctions Commission or the investigative bodies.

<sup>3</sup> The Bodies will act and decide independently within the scope of their competence.

# 2 General principles

## 2.1 Recusal

<sup>1</sup> Conflicts of interest are to be reported immediately. Recusal may be declared by the persons involved in the sanction proceedings or demanded by those involved in the proceedings. Reasons must be given for the application, and the facts relating to the demand for recusal must be credible. The Party Concerned must state its position on the application for recusal.

<sup>2</sup> If the recusal is contested, in the case of members of SIX Exchange Regulation the matter will be decided by the line manager. In the case of members of the Sanctions Commission, the Chairman will decide. The Vice-Chairman shall rule on any recusal on the part of the Chairman.

<sup>3</sup> If the application for recusal is approved, SIX Exchange Regulation will bear the procedural costs. If the application is rejected or if it was deliberately delayed or lodged with intent to manipulate the proceedings, the related costs will be borne by the applicant.

<sup>4</sup> Members of the investigative bodies and the Sanctions Commission will be prohibited from performing their function in the following specific instances in particular if:

- a) they have a personal interest in the matter at hand;
- b) they have been involved in the same matter in another capacity, i.e. as a member of an authority, a member of a governing or executive body of one of the Parties Concerned, an employee of or legal counsel to one of the Parties Concerned, a judge, an arbitrator, an expert, a witness or a mediator;
- c) they are married to, live in a registered partnership with or cohabit de facto with one of the Parties Concerned or with a member of a governing or executive body of one of the Parties Concerned, with the latter's legal counsel or with a person who has been involved in the same matter as the member of an authority;
- d) they are the parent, child, sibling, aunt, uncle or cousin (in the latter three cases up to and including three times removed) of or otherwise related by marriage to one of the Parties Concerned or to a member of a governing or executive body of one of the Parties Concerned, with the latter's legal counsel or with a person who has been involved in the same matter as the member of an authority;

e) they might be biased for some other reason, in particular owing to a relationship of obligation or dependency, friendship or enmity with one of the Parties Concerned, or with a member of a governing body of one of the Parties Concerned, or their legal counsel.

<sup>5</sup> Any individual who has been involved in a matter within an investigative body is excluded from membership of the Sanctions Commission or the Appeals Court for the proceedings in question.

<sup>6</sup> Proceedings in which a person who is under a recusal obligation has taken part must be cancelled and repeated. Evidence that cannot be re-gathered or gathered only at disproportionate time and expense may still be considered in the repeated proceedings.

## **2.2 Language**

<sup>1</sup> At the choice of the Parties Concerned, the proceedings may be conducted in German, French or English. If no such choice is made or if the Parties Concerned cannot come to an agreement, the decision will be made by the executive body which instituted the proceedings.

<sup>2</sup> Submissions may be made in German, French, Italian or English. The Parties Concerned must have any documents which are written in another language translated into one of the permissible languages.

## **2.3 Conduct of proceedings**

<sup>1</sup> Unless the executive bodies rule otherwise, the proceedings will be conducted in writing.

<sup>2</sup> The proceedings are to be conducted swiftly and efficiently.

## **2.4 Deadlines**

### **2.4.1 Setting of deadlines**

<sup>1</sup> The deadlines laid down in these Rules may not be extended. If they are not observed, the rights are forfeited.

<sup>2</sup> All other deadlines will be set by the executive bodies in accordance with the needs of the capital market.

<sup>3</sup> The executive bodies may, in exceptional cases, extend the deadlines they have set. The request for extension must be lodged prior to the deadline.

<sup>4</sup> Deadlines will be extended only on the basis of a justified request and sufficient grounds.

<sup>5</sup> If the Party Concerned and/or its representative are prevented through no fault of their own from acting prior to the given deadline, the deadline will be re-set, provided an application for an extension, stating the grounds, is submitted within five days of the obstacle being eliminated.

<sup>6</sup> If the request for a new deadline is granted, the time period for rectifying the non-performance of the legal act in question will begin with the delivery of this decision.

### **2.4.2 Deadline calculation**

<sup>1</sup> Deadlines are calculated on the basis of trading days at the regulated trading venues.

<sup>2</sup> No recess is taken into account.

<sup>3</sup> The period of allowable time begins on the day following receipt of notification by the Party Concerned.

### **2.4.3 Keeping of deadlines**

<sup>1</sup> An act is deemed to have been performed on time if it has been undertaken by 24:00 Swiss time on the deadline date.

<sup>2</sup> For the purpose of preserving deadlines, submissions may be made physically, via fax or by electronic means. In the case of physical submissions, the deadline is deemed to have been met if the submission is handed to the Swiss postal service or to an express courier by the deadline.

<sup>3</sup> If an original signature is required for the validity of a document that has been submitted via fax or electronically, this original signature must be supplied immediately.

## 2.5 Statute of limitations

<sup>1</sup> No sanction proceedings may be initiated if the alleged violation of rules of trading venues which are regulated by the regulatory bodies of SIX Group Ltd was committed more than two years in the past.

<sup>2</sup> No further sanction may be imposed if more than two years have passed since the initiation of sanction proceedings. Sanction proceedings are deemed to have been initiated when the investigative bodies take action against the Parties Concerned as described in Clause 3.2 para. 2 and Clause 3.3 para. 2. If the investigative bodies have issued a sanction notice or the Sanctions Commission has arrived at a decision before the end of this two-year period, the statute of limitations will no longer apply, regardless of the legal enforceability of such notices or decisions.

## 2.6 Register of sanctions

<sup>1</sup> SIX Exchange Regulation will keep a register of all sanctions that have become legally enforceable.

<sup>2</sup> The register will not be open to public inspection. It will be kept by the investigative bodies. The Sanctions Commission and Appeals Court have a right of inspection concerning the cases that are legally pending with them.

<sup>3</sup> Third parties holding the appropriate legal rights will, should they enforce such rights, be provided with the relevant extract from the register.

<sup>4</sup> A register entry will not be taken into account in the assessment of any subsequent sanctions if three years have elapsed between the previous sanction acquiring legal force and the time of the latest violation of the rules and regulations. The corresponding entries must be deleted once this period has expired.

## 2.7 Destruction of records of proceedings

Records of proceedings will be destroyed ten years after the resulting sanction has acquired legal force.

## 2.8 Secret consultation

The executive bodies will arrive at their decisions following confidential consultations.

## 2.9 Costs

<sup>1</sup> The executive bodies may require the Parties Concerned to pay all or some of the costs of the proceedings or of any other specific expenditures such as costs for expert opinions and the processing of records, provided:

- a) sanctions have been imposed; or
- b) the Parties Concerned were responsible for those costs being incurred owing to a violation of procedural obligations.

<sup>2</sup> As a general rule, any costs for legal counsel or other such assistance are to be borne by the Parties Concerned.

<sup>3</sup> If proceedings must be repeated, those parties to the proceedings which caused the repetition may be required to pay all or some of the costs of the proceedings, regardless of the outcome of those proceedings.

## 2.10 Agreements

<sup>1</sup> The investigative bodies may terminate sanction proceedings by entering into an agreement with the Party Concerned (agreement).

<sup>2</sup> Agreements are permissible in trivial cases or if they would allow the public to be informed more rapidly or more fully than would be the case with sanction proceedings concluded in the regular manner.

<sup>3</sup> Agreements are to be drawn up in writing and must bear legally valid signatures. The Party Concerned and the investigative body will each receive one copy of the agreement.

<sup>4</sup> Agreements must be published. As a minimum, public notification must state the regulatory area in question, the key facts of the matter, the content of the agreement and the identities of the Parties Concerned.

## 3 Investigation

### 3.1 General principles

- <sup>1</sup> The investigative bodies must consider exculpatory and inculpatory aspects with equal care.
- <sup>2</sup> Evidence is deemed to be all objects and information that serve to determine the facts of the case. All such objects and information are subject to free evaluation.
- <sup>3</sup> The investigative bodies may appoint experts. The Parties Concerned will be granted the opportunity to state their position on the person appointed as the expert, the issuance of the corresponding mandate and the content of the latter. As a general rule, expert opinions are presented in written form.
- <sup>4</sup> The investigative bodies may interrogate the Parties Concerned and third parties.
- <sup>5</sup> The interrogation may be recorded on an audio or video storage medium. The investigative bodies must advise the Parties Concerned in advance that a recording will be made. If, by way of exception, no audio or video recording is made of the interview, a detailed written record must be made.
- <sup>6</sup> The objects and information serving as evidence in the sanction proceedings will be made available for inspection by the Parties Concerned at SIX Exchange Regulation. At the request of the Parties Concerned and at their own cost, SIX Exchange Regulation may provide them with copies of original documents and audio or video recordings.
- <sup>7</sup> Documents that include data relating to third parties must be made anonymous prior to dispatch.
- <sup>8</sup> Evidence that has not been made available to the Parties Concerned may not be taken into account in the sanction proceedings.

### 3.2 Surveillance & Enforcement proceedings

- <sup>1</sup> In the context of a preliminary investigation, Surveillance & Enforcement will examine whether or not sufficient indications exist to conduct a formal investigation.
- <sup>2</sup> If there are sufficient indications of a violation of rules and regulations as described in Clause 1.1 para. 1 lit. a, an investigation will be initiated. The Parties Concerned (i.e. the participant and in some cases also its traders or reporting agents) will be informed in writing that an investigation has been initiated. No appeal may be lodged against the initiation of an investigation.
- <sup>3</sup> During the investigation, Surveillance & Enforcement will ascertain the facts of the matter to the extent necessary to justify a sanction notice or a proposal to the Sanctions Commission. The Parties Concerned (the participant and in some cases also its traders or reporting agents) will have the opportunity during the investigation to state its/their position in writing.
- <sup>4</sup> The supervisory authority will be notified of the commencement and conclusion of investigations.

### 3.3 Listing & Enforcement proceedings

- <sup>1</sup> In the context of a preliminary investigation, Listing & Enforcement will conduct a summary review to establish whether or not sufficient indications exist to conduct a formal investigation.
- <sup>2</sup> If there are sufficient indications of a potential violation of the LR, the Additional Rules or their related implementing ordinances, the Parties Concerned will be notified in writing that an investigation is to be initiated. When the investigation opens, the Party Concerned will be notified of the object of the investigation and informed that the results of the investigation might lead to a proposal for a sanction, a sanction notice, an agreement or the stay of the investigation. No appeal may be lodged against the opening of an investigation.
- <sup>3</sup> During the investigation, Listing & Enforcement will ascertain the facts of the matter to the extent necessary to justify a sanction notice or a proposal to the Sanctions Commission. The latter will be presented to the Parties Concerned so that they can state their position on the matter.

### 3.4 Conclusion of the investigation

<sup>1</sup> An investigation by the executive bodies concludes with the stay of the proceedings or upon an agreement, the issue of a sanction notice or the lodging of an proposal for sanctions with the Sanctions Commission.

<sup>2</sup> The Parties Concerned will be notified in writing of the stay of the investigation.

<sup>3</sup> Both the Parties Concerned and the Sanctions Commission will be informed in writing of the sanction notice.

<sup>4</sup> The investigative bodies' proposal for sanctions will be submitted to the Sanctions Commission with the records underlying the proposal and the statement of the Party Concerned. The Parties Concerned will be notified that the sanction proposal has been submitted to the Sanctions Commission.

### 3.5 Sanction notice

<sup>1</sup> Surveillance & Enforcement may issue a sanction notice against a trader employed by a participant or a reporting agent if the sanction takes the form of a reprimand, a suspension or exclusion from trading.

<sup>2</sup> Listing & Enforcement may issue a sanction notice for a negligent violation of the rules as defined in Clause 1.1 para. 1 lit. b if possible sanctions include a reprimand or fine of up to CHF 100,000.

<sup>3</sup> The sanction notice includes:

- a) a presentation of the facts of the case;
- b) the statement of the rules that have been violated;
- c) a brief description of grounds;
- d) the sanction;
- e) an indication that the notice will be published;
- f) the costs;
- g) the means of legal redress.

## 4 Sanctions commission proceedings

### 4.1 Commencement of proceedings

<sup>1</sup> After the Sanctions Commission has received the sanction proposal and the supporting documentation, the Chairman of the Commission will forward the proposal and documentation to the Parties Concerned if the investigative bodies have not already done so.

<sup>2</sup> The Chairman may set a deadline for a further statement of position, order a second round of correspondence, or summon the Party Concerned to a verbal hearing.

<sup>3</sup> The statement of position submitted by the Parties Concerned must comprise a proposal, the grounds for the proposal, and supporting evidence.

### 4.2 New facts

<sup>1</sup> The Sanctions Commission will also admit facts and evidence which, at reasonable effort and expense, might have been put forward during the investigative phase. If such facts and evidence are submitted, the related additional effort may be taken into account in the calculation of costs.

<sup>2</sup> If the Sanctions Commission admits new facts or evidence, the other parties to the proceedings will be given the opportunity to state their position.

### 4.3 Proceedings

<sup>1</sup> As a general rule, Sanctions Commission decisions will be made by three of its members. Decisions of fundamental importance may be arrived at by a five-member panel. The Chairman will determine which members are to handle the proceedings and will then inform all parties to the proceedings.

<sup>2</sup> The composition of the members involved in the proceedings must ensure that, in the case of decisions concerning possible violations on the part of participants, the majority of the members involved in the proceedings is independent of the participants. In the case of decisions concerning possible violations on the part of issuers, the majority of the members involved in the proceedings must be independent of the issuers.

<sup>3</sup> The Chairman or Vice-Chairman will lead the Commission and determine the form and progress of the individual proceedings. He may instruct a member or the Secretary to arrange for expert reports.

<sup>4</sup> The Sanctions Commission may pass its decisions either at meetings or via circular letter. Decisions are passed with the majority of members appointed for the proceedings in question. These members are obliged to cast a vote.

<sup>5</sup> The Sanctions Commission will arrive at its decision essentially on the basis of the documentation submitted. Prior to issuing a decision it may summon the parties to the proceedings to hearings.

#### **4.4 Decision**

<sup>1</sup> The decision of the Sanctions Commission includes:

- a) the names of the participating members of the Sanctions Commission;
- b) a presentation of the facts of the case;
- c) the statement of the rules that have been violated;
- d) the grounds;
- e) the sanction
- f) an indication that the sanction will be published;
- g) the costs;
- h) the means of legal redress.

<sup>2</sup> Decisions must be signed by the Chairman or Vice-Chairman, as well as one of the members or the Secretary.

<sup>3</sup> The decision will be sent to the parties to the proceedings.

<sup>4</sup> In arriving at its decision, the Sanctions Commission is not bound by the sanction proposals submitted by the investigative bodies.

#### **4.5 Costs**

The Sanctions Commission may impose charges to cover its procedural expenses. It may enact a specific set of regulations to that end.

#### **4.6 Additional regulatory authority held by the Sanctions Commission**

The Sanctions Commission may govern its own organisation and its proceedings to the extent that this is not already covered by other rules and regulations.

## **5 Means of legal redress**

### **5.1 General principles**

<sup>1</sup> Appeals are permissible only against the final decisions of the executive bodies.

<sup>2</sup> Appeals essentially are accorded suspensive effect.

<sup>3</sup> To safeguard the security markets' ability to function properly, to ensure transparency or to safeguard the equal treatment of market participants, the Sanctions Commission may revoke the suspensive effect of any appeal.

## 5.2 Sanction notices by investigative bodies

<sup>1</sup> The Party Concerned may lodge an appeal with the Sanctions Commission against investigative body sanction notices within ten trading days.

<sup>2</sup> Having received the appeal, the Chairman of the Sanctions Commission will set the Party Concerned a deadline by which it must submit grounds for its appeal. Once the grounds for the appeal have been received, the investigative body will be invited to present its position before the Sanctions Commission.

<sup>3</sup> The appeal may challenge all deficiencies relating to the investigation, to the proceedings themselves or to the sanction notice issued by the investigative bodies.

<sup>4</sup> Appeals against sanction notices issued by investigative bodies will be ruled on by the Sanctions Commission, which is accorded full cognisable authority in this regard. The Sanctions Commission may refer the matter back to the responsible investigative body for regular sanction proceedings, or instruct the responsible investigative body to conduct further investigations. If the Sanctions Commission opts to rule on its own, its decision need not be bound by the sanction notice.

## 5.3 Decisions by the Sanctions Commission

<sup>1</sup> Under the terms of Art. 37 FMIA, Parties Concerned may challenge decisions by the Sanction Commission regarding the exclusion of participants, traders and reporting agents, as well as the delisting or suspension of securities, by submitting an appeal to the Appeals Board within 20 trading days of receiving the decision in question. The appeal must be substantiated.

<sup>2</sup> Where all other Sanctions Commission decisions are concerned, the Party Concerned may file a complaint with the Court of Arbitration within 20 trading days of receiving the decision in question. The complaint must be substantiated.

# 6 Information for the general public

## 6.1 Information issued by Surveillance & Enforcement

<sup>1</sup> Surveillance & Enforcement may publish sanction notices that have acquired legal force.

<sup>2</sup> The sanction notice will generally be made available on the SIX Exchange Regulation website in anonymised form.

## 6.2 Information issued by Listing & Enforcement

<sup>1</sup> The public will not be informed of whether or not Listing & Enforcement has initiated preliminary investigations into a particular matter.

<sup>2</sup> Listing & Enforcement will inform the public of the initiation of an investigation, unless this is prohibited by some other rule or regulation. The Party Concerned will be informed in advance.

<sup>3</sup> In exceptional cases, Listing & Enforcement may refrain from informing the public that an investigation has been opened.

<sup>4</sup> The Parties Concerned and the public will be informed if an investigation that has previously been announced publicly is halted.

<sup>5</sup> If an investigation is concluded with a legally enforceable sanction notice, the fact will be made public.

<sup>6</sup> The sanction notice will generally be made available on the SIX Exchange Regulation website in anonymised form.

## 6.3 Information issued by the Sanctions Commission

<sup>1</sup> The Sanctions Commission will publish sanction decisions that have acquired legal force.

<sup>2</sup> To safeguard the security markets' ability to function properly, to ensure transparency or to safeguard the equal treatment of market participants, Sanctions Commission sanction decisions may be published regardless of whether or not they are legally enforceable. In such cases, however, it must be stated that the Parties Concerned have the option of taking the matter further.

<sup>3</sup> The Sanctions Commission will make its legally enforceable decisions available on the SIX Exchange Regulation website in anonymised form.

## **7 Concluding provisions**

### **7.1 Entry into force**

These Rules of Procedure replace the Rules of Procedure dated 25 August 2006 and were approved by the Swiss Financial Market Supervisory Authority on 23 April 2009. They enter into force on 1 July 2009.

### **7.2 Transitional provision**

Proceedings in which investigations into the Parties Concerned were initiated prior to 1 July 2009 are governed by the provisions of the Rules of Procedure dated 25 August 2006.

### **7.3 Revisions**

<sup>1</sup> The revision of Clauses 1.1 and 1.2 that was decreed by the Regulatory Board in its resolution of 21 April 2010 and approved by the Swiss Financial Market Supervisory Authority on 26 April 2010 enters into force on 1 May 2010.

<sup>2</sup> The revision of Clauses 1.1 and 1.2 that was decreed by the Regulatory Board in its resolution of 1 October 2010 and approved by the Swiss Financial Market Supervisory Authority on 7 October 2010 entered into force on 1 November 2010.

<sup>3</sup> The revision of Clauses 1.1 and 1.2 that was decreed by the Regulatory Board in its resolution of 6 May 2015 and approved by the Swiss Financial Market Supervisory Authority on 11 June 2015 enters into force on 1 August 2015.

<sup>4</sup> Amendments due to the entry into force of the Financial Market Infrastructure Act and related ordinances in Clause 5.3 as of 1 April 2016.

<sup>5</sup> Amendment to Clauses 1.1 and 1.2 owing to the merger by absorption of SIX Structured Products Exchange Ltd by SIX Swiss Exchange Ltd effective 2 May 2017.

<sup>6</sup> The revision of Clauses 1.1, 1.2, 2.4.2, 2.5, 2.6, 3.3, 3.5, 4.3, 5.2, 5.3 and 6.3 that were decreed by the Regulatory Board in its resolutions of 4 November 2016 and 29 January 2018 and approved by the Swiss Financial Market Supervisory Authority on 14 November 2017 enter into force on 15 February 2018.

<sup>7</sup> The revision of Clauses 1.1, 1.2, 3.2, 3.5, 5.2 and 5.3 that were decreed by the Regulatory Board in its resolution of 4 April 2018 and approved by the Swiss Financial Market Supervisory Authority on 30 April 2018 enter into force on 1 May 2018.