



Trading on SIX Swiss Exchange

Module – Rules and Regulations

December 2022

Content

Content	2
1. Securities exchange law: overview of sources	4
1.1. The constitutional level	4
1.1.1. The Swiss Federal Constitution.....	4
1.2. The statutory level	5
1.2.1. Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Act, FMIA)	5
1.2.2. Federal Act on Financial Institutions (Financial Institutions Act, FinIA)	6
1.3. Implementing ordinance level	6
1.3.1. Financial Market Infrastructure Ordinance (FMIO)	6
1.3.2. Ordinance on Financial Institutions (Financial Institutions Ordinance, FinIO)	6
1.3.3. FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA).....	6
1.3.4. The Takeovers Ordinance – Takeover Board (TOO-TB).....	7
2. Regulatory structure of SIX	8
2.1. Self-regulation	8
2.2. Regulatory body: The Swiss Financial Market Supervisory Authority (FINMA)	10
2.3. Regulatory Board.....	11
2.3.1. Issuers Committee.....	11
2.3.2. Participants & Surveillance Committee	12
2.4. SIX Exchange Regulation Ltd	12
2.5. Judicial bodies	13
2.5.1. Sanctions Commission	13
2.5.2. Independent Appeals Board.....	13
2.5.3. Board of Arbitration.....	13
2.6. Stock exchange rules and regulations in the context of self-regulation.....	14
2.6.1. Rule Book (RB).....	14
2.6.2. Directives.....	15
2.6.3. Listing Rules	16
3. Admission of securities to trading	17
3.1. Legal framework	17
3.1.1. Hierarchy of rules and regulations: overview of SIX Swiss Exchange listing rules	17
3.1.2. Listing Rules	17
3.1.3. Additional Rules.....	17
3.1.4. Directives.....	18
3.1.5. Circulars	18
3.1.6. Communiqués	18
3.2. Regulatory Standards of SIX Swiss Exchange	18
3.2.1. International Reporting Standard	20
3.2.2. Swiss Reporting Standard.....	20
3.2.3. Standard for Investment Companies	20
3.2.4. Standard for Real Estate Companies	20
3.2.5. Standard for Sparks	20
3.2.6. Standard for Sparks.....	21
3.2.7. Standard for Global depository receipts	21
3.2.8. Standard for Collective Investment Schemes	21
3.2.9. International bonds	21

3.3.	Listing.....	22
3.3.1.	Conditions for listing.....	22
3.3.2.	Listing procedure	23
3.4.	Disclosure requirements with respect to listing.....	26
3.4.1.	Disclosure Obligation related to a listing	26
3.4.2.	Recurring disclosure obligations	27
3.4.3.	Event-driven disclosure obligations.....	28
3.5.	Suspensions	36
3.5.1.	Suspension of trading.....	36
3.5.2.	Delisting.....	36
4.	Penalties and sanctions	38
4.1.	Legislation and provisions.....	38
4.2.	Basic principles.....	38
4.3.	Insider trading and price manipulation.....	39
4.3.1.	Exploiting knowledge of confidential facts (insider trading).....	39
4.3.2.	Price manipulation	41
4.3.3.	FINMA Circular 2013/08: Supervisory rules for market conduct in securities trading.....	44
4.4.	Sanction proceedings in the context of self-regulation.....	45
4.4.1.	SIX Swiss Exchange investigative bodies	45
4.4.2.	Listing & Enforcement proceedings.....	45
4.4.3.	Surveillance & Enforcement proceedings.....	46
4.4.4.	Conclusion of the investigation.....	47
4.4.5.	Sanction notices by investigative bodies	47
4.4.6.	Sanctions Commission decisions.....	48
4.5.	Sanctions.....	49
4.5.1.	Sanctions against participants and traders.....	49
4.5.2.	Sanctions against issuers	49
4.5.3.	Information for the general public.....	50
5.	Liability.....	50
5.1.	Liability of the Exchange	50
5.2.	Liability of participants.....	51
6.	Contact	52
6.1.	Member Education.....	52
6.2.	Specific Helpdesks	53
7.	Sources	54
8.	Glossary	55

1. Securities exchange law: overview of sources



Figure: Sources of law

1.1. The constitutional level

1.1.1. The Swiss Federal Constitution

The operation of a securities exchange and the activities of securities dealers are essentially governed by the principle of freedom of trade and commerce. On the basis of the Swiss Federal Constitution, the federal legislature enacted, in the general interests of the Swiss economy as a whole, the following two acts:

- the Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (FMIA)
- the
- Federal Act on Financial Institutions (Financial Institutions Act, FinIA)

This piece of legislation lays down rules for commercial operation and creates a uniform, nationwide legal framework for securities-related activities.

1.2. The statutory level

1.2.1. Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Act, FMIA)

The FMIA governs the organisation and operation of financial market infrastructures, including stock exchanges and multilateral trading facilities, and sets out the rules of conduct applying to trading.

The purpose of the Act is to ensure

- the proper functioning and transparency of securities and derivatives markets,
- the stability of the financial system,
- the protection of financial market participants and
- the equal treatment of investors.

For the purpose of ensuring functional safeguards and investor protection, the FMIA lays down the requirements for establishing and operating securities exchanges and for professional trading in securities.

Investor protection and functional safeguards	
Functional safeguards	Investor protection
The functional safeguards laid down in the Act are intended to protect the operating capability of the stock exchange as an institution. This is to ensure that exchanges can perform their crucial economic function as effectively as possible.	The investor protection provisions of the Act are intended to safeguard the individual interests of investors by ensuring that banks, securities dealers, issuers and other investors do not place any investor at a disadvantage.

In order to ensure flexibility, the FMIA was designed as a **framework law**, which contains a limited number of basic provisions, while also affording extensive scope for self-regulation. The Swiss Financial Market Supervisory Authority (FINMA), as the state regulatory body, ensures that the relevant legal and regulatory requirements are adopted and upheld.

The FMIA includes provisions on:

- the authorisation of financial market infrastructures and the applicable requirements
- the establishment and operation of trading venues (stock exchanges, multilateral trading facilities)
- organised trading facilities
- derivatives trading
- insider trading and market manipulation
- disclosure of shareholdings
- public takeover offers
- conduct that constitutes a criminal offence

1.2.2. Federal Act on Financial Institutions (Financial Institutions Act, FinIA)

This Act governs the requirements for acting as a financial institution. Its purpose is to protect the investors and clients of financial institutions and ensure the proper functioning of the financial market.

According to Art. 51 securities firm must report all of the information necessary for transparent securities trading. FINMA shall regulate which information is to be reported to whom and in what form.

Sample question:

The FMIA serves the following purposes:

- a) Defines rules for the establishment and operation of securities exchanges and for professional trading in securities
- b) Contains provisions and penalties with respect to insider trading
- c) Defines the legal framework for transparent trading and the equal treatment of market participants

Answer: a), b) and c)

Explanation: The FMIA establishes the general framework for stock exchanges and securities trading and lays down the rules and penalties applying to insider trading.

1.3. Implementing ordinance level

1.3.1. Financial Market Infrastructure Ordinance (FMIO)

The FMIO clarifies and implements the provisions of the FMIA and specifically governs:

- the organisation of trading venues and the applicable regulatory and supervisory organisation
- the organisation of trading, ensuring orderly trading as well as algorithmic and high-frequency trading
- pre-trade and post-trade transparency
- the admission of securities to trading
- the reporting duty of participants

1.3.2. Ordinance on Financial Institutions (Financial Institutions Ordinance, FinIO)

Ordinance on Financial Institutions (Financial Institutions Ordinance, FinIO) contains specific provisions on reporting requirements and other FinIA provisions (e.g. the authorisation conditions for financial institutions; the duties of the financial institutions; and the supervision of the financial institutions).

1.3.3. FINMA Financial Market Infrastructure Ordinance (FMIO-FINMA)

The FMIO-FINMA lays down specific requirements in relation to the Financial Market Infrastructure Act, which FINMA is responsible for implementing.

The FMIO-FINMA specifically governs:

- the daily record-keeping and reporting requirements for securities dealers (in addition to the requirements laid down in FinIA)
- the disclosure of shareholdings
- the submission of offers

1.3.4. The Takeovers Ordinance – Takeover Board (TOO-TB)

FMIA Art. 126 ff. The Takeovers Ordinance also expands upon and implements the provisions of Art. 125 ff. FMIA with respect to public takeover offers.

2. Regulatory structure of SIX

2.1. Self-regulation

The FMIA confers the following powers in the section entitled "Self-regulation":

**FMIA
Art. 27**

Art. 27 FMIA: Self-Regulation

- ¹ The trading venue shall establish under FINMA supervision its own regulatory and supervisory organisation which is appropriate for its activity.
- ² The regulatory and supervisory tasks delegated to the trading venue must be carried out by independent bodies. The directors of these bodies must:
 - a. provide the guarantee of irreproachable business conduct;
 - b. enjoy a good reputation; and
 - c. have the specialist qualifications required for their functions.
- ³ The selection of the directors under paragraph 2 requires the approval of FINMA.
- ⁴ The trading venue shall submit its regulations and their amendments to FINMA for approval

Self-regulation, as opposed to government regulation, essentially means that the necessary rules and procedures are adopted within the private sector.

Remark:

Self-regulation, as opposed to government regulation, essentially means that the necessary rules and procedures are adopted within the private sector.

The principle of self-regulation enshrined in Art. 27 of the FMIA applies to the organisation and monitoring of trading activity as well as to the rules governing exchange membership and the listing of securities. This principle of self-regulation gives exchanges a degree of autonomy that is determined on an individual basis.

Stock exchange self-regulation is subject to oversight by the Swiss Financial Market Supervisory Authority (FINMA) as the state regulatory body.

The self-regulatory bodies are composed as follows:

- Regulatory Board (legislative)
- SIX Exchange Regulation (executive)
- Judicial bodies (judiciary)

The following chapters deal with the individual organs.

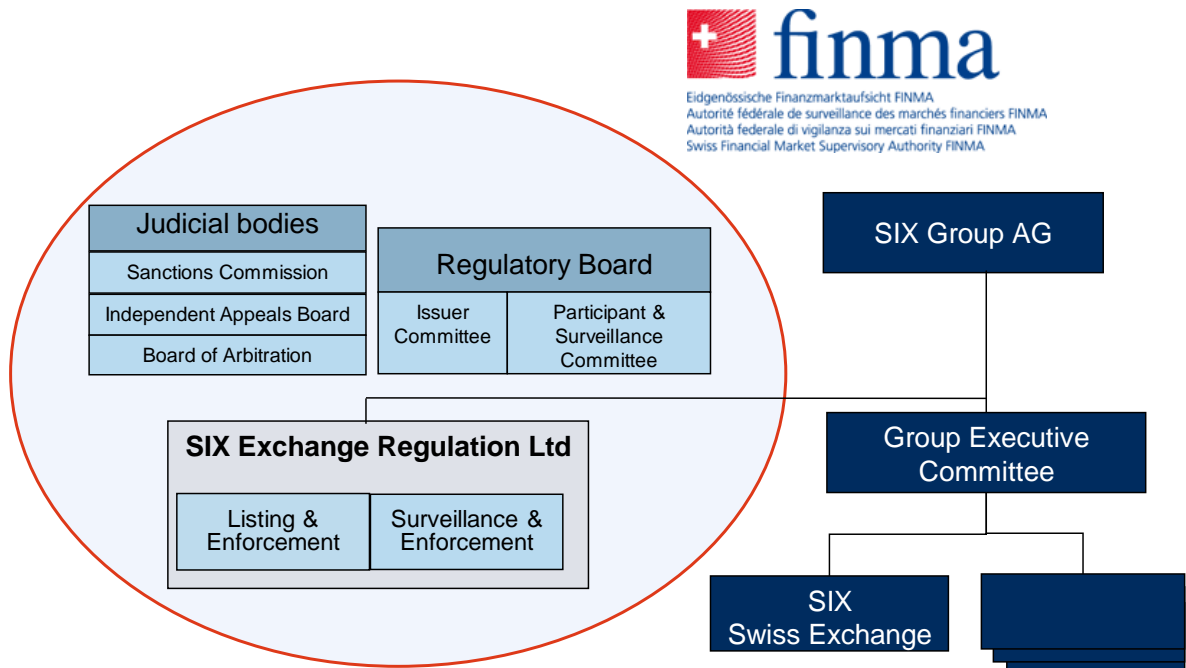


Figure: Regulatory structure of SIX

2.2. Regulatory body: The Swiss Financial Market Supervisory Authority (FINMA)

The Swiss Financial Market Supervisory Authority (FINMA) based in Bern is the regulatory body responsible for SIX Swiss Exchange. FINMA acts as an independent and autonomous body within the scope of its powers and responsibilities. FINMA adopts its own rules on procedures, organisational matters and business operations. Its remit is to safeguard the reputation of the Swiss financial sector and ensure the stability of the Swiss financial system.

The Swiss Financial Market Supervisory Authority (FINMA) consists of eight divisions, which form the basis of its various supervisory functions. The Markets division is responsible for regulating markets (stock exchanges).

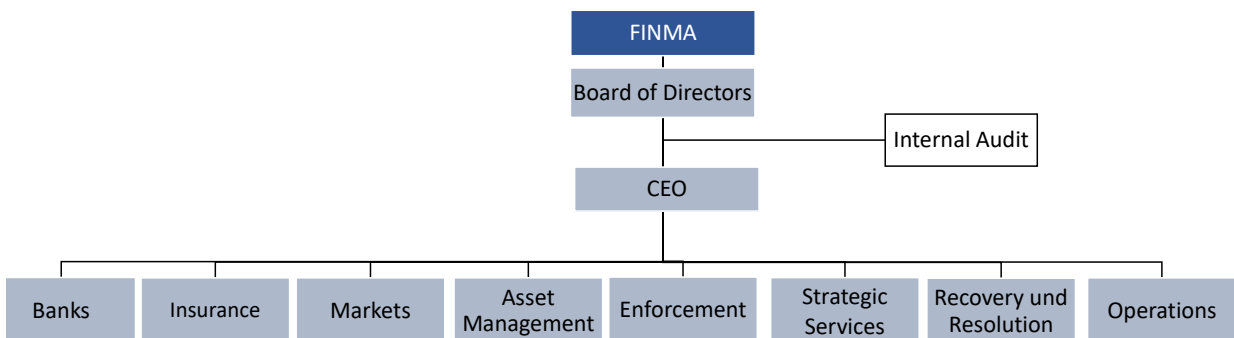


Figure: FINMA organisational structure

FINMA acts as the "pre-eminent" watchdog agency with respect to a number of supervisory laws. Depending on the underlying legislation, FINMA performs prescribed regulatory functions with specific objectives in relation to a range of public bodies, organisations and types of entity.

Licensed banks, securities dealers, insurance companies, collective investment schemes and their asset managers and fund management companies are subject to prudential supervision; in other words, they are monitored in a comprehensive, ongoing manner in accordance with a risk-based approach. FINMA's mandate is to protect creditors, investors and insured persons against the consequences of a company becoming insolvent, unfair commercial practices or unequal treatment. At the same time, FINMA is responsible for ensuring that the financial markets continue to function effectively.

2.3. Regulatory Board

Pursuant to its self-regulatory duties under stock exchange legislation, the Regulatory Board is the supreme body for the regulation of issuers, participants and traders (**rule-making body**). It consists of a maximum of 17 members, which are elected by the Board of Directors of SIX Group Ltd. In addition, a member of the Board of SIX Group Ltd will be appointed ex officio. Economiesuisse will nominate three candidates as a member. The Regulatory Board is also responsible for setting up the Issuers Committee and Participants & Surveillance Committee.



Figure: Overview Regulatory Board

2.3.1. Issuers Committee

The Regulatory Board delegates some of its powers with respect to issuer regulation to the Issuers Committee, which is composed of a Chairman and a maximum of six other members. The Committee for Issuer Regulation consists of at least five members. Issuers and investors must be adequately represented. The Committee is chaired by the Chairman of the Regulatory Board. The Issuer Committee is responsible for issuing the implementation provisions of the regulations.

The Issuers Committee has the following tasks:

- preparation of the rules and additional rules for issuers to be issued by the Regulatory Board
- issue of directives or delegation to SIX Exchange Regulation to issue individual directives
- conducting hearings and consultations on the rules and directives to be issued
- in individual cases, upon request, granting exceptions to the rules and directives
- decision on the listing or admission to trading of securities
- delegation of tasks in whole or in part to SIX Exchange Regulation

2.3.2. Participants & Surveillance Committee

The Regulatory Board delegates some of its powers with respect to participants and surveillance to the Issuers Committee, which is composed of a Chairman and a maximum of six other members. The Committee for Participant & Surveillance Committee shall consist of at least five members. Participants must be adequately represented. The Committee is chaired by the Vice Chairman of the Regulatory Board. The Participants & Surveillance Committee is responsible for issuing the implementation provisions of the regulations.

The Participants & Surveillance Committee has the following tasks:

- preparation of the Rule Books to be issued by the Regulatory Board
- issuing directives for participants and traders
- conducting consultations and hearings on the rules books and directives to be issued
- delegation of tasks in whole or in part to SIX Exchange Regulation

2.4. SIX Exchange Regulation Ltd

SIX Exchange Regulation performs the duties prescribed under federal law in relation to the regulation of issuers and participants, implements the rules adopted by the Regulatory Board, and monitors compliance with such rules. It is therefore the **executive** power under self-regulation. SIX Exchange Regulation as a 100% subsidiary of SIX Group Ltd is independent of the SIX operating entities from a staffing, organisational and legal standpoint.

In the area of issuer regulation, SIX Exchange Regulation is responsible for the admission of securities and monitors compliance with the Listing Rules.

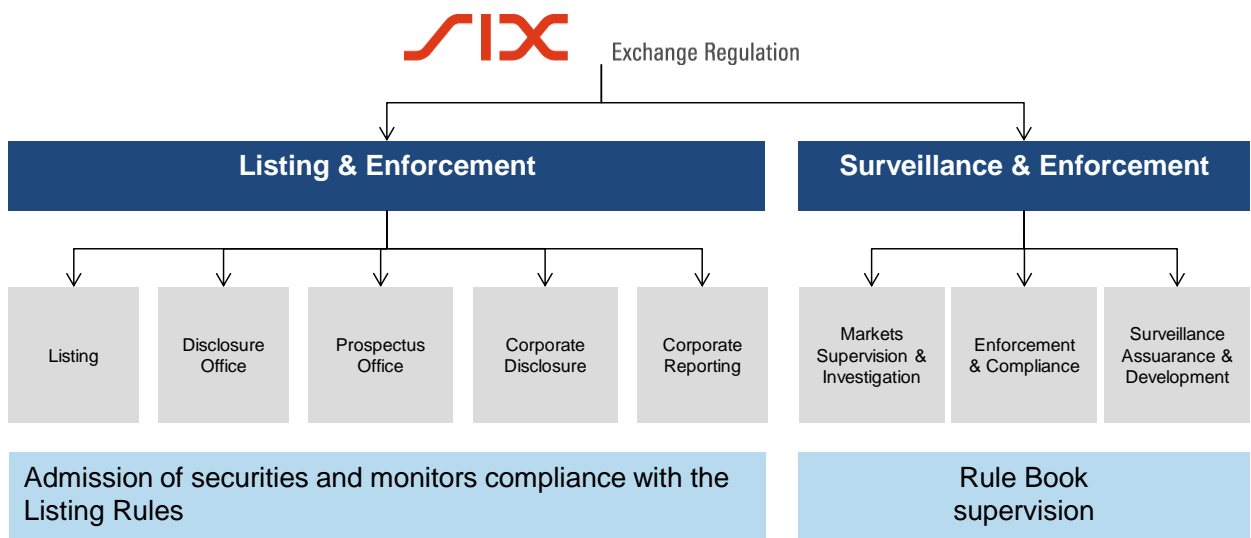


Figure: Organisation chart of SIX Exchange Regulation

2.5. Judicial bodies

The SIX **Judicial Bodies** are responsible for enforcing the rules adopted and decisions made by the regulatory bodies. The Judicial Bodies comprise the

- Sanctions Commission
- Independent Appeals Board
- Board of Arbitration

2.5.1. Sanctions Commission

The Sanctions Commission can impose sanctions against individuals and legal entities that are subject to the Rule Book of SIX Swiss Exchange, the Listing Rules and the Additional Rules. It consists of between five and eleven members. The Chairman of the Sanctions Commission and half of its members are elected by the Regulatory Board, with the remaining members appointed by the Board of Directors of SIX Group Ltd.

In addition, the Sanctions Commission assesses complaints against sanction notices that the investigative bodies have issued directly within the scope of their responsibility. It may, with a view to ensuring that proper sanctions proceedings are carried out,

- reject the matter and return it to the relevant investigative body
- or instruct the relevant investigative body to carry out further clarification.

Decisions on the suspension and exclusion of participants and traders, as well as on the suspension of trading and delisting, may be referred to the independent Appeals Board. Appeals against other decisions may be taken directly to the Board of Arbitration.

2.5.2. Independent Appeals Board

The FMIA requires the establishment of an independent appeals board to hear and determine appeals against

- decisions on the admission, suspension and exclusion **of participants**,
- appeals against the admission and suspension **of traders** and the revocation of trader registration
- appeals from **issuers** against decisions regarding listing, the suspension of trading, and delisting.

2.5.3. Board of Arbitration

Once a decision has been made by the lower-level body, a complaint may ultimately be referred to the SIX Swiss Exchange Board of Arbitration. Decisions of the Board of Arbitration are final and binding.

The Board of Arbitration is based in Zurich and consists of a chairman and two arbitrators, with an arbitrator appointed by each of the parties involved in the case. The chairman and his deputy are appointed by the President of the Swiss Federal Supreme Court for a four-year term of office.

The specific procedures and practices of the Judicial Bodies are set out in section 4.4 ff.

2.6. Stock exchange rules and regulations in the context of self-regulation

2.6.1. Rule Book (RB)

Purpose

RB Art. 1

RB Art. 1 Purpose

Under the FMIA, the Rule Book governs the **admission of securities dealers as participants on the Exchange**, the organisation of securities trading on the Exchange and the rules of conduct for participants and their traders.

The Rule Book aims to ensure equal treatment of investors and participants as well as the transparency and proper functioning of securities trading on the Exchange.

Structure of the Rule Book

The Rule Book is divided into five parts as follows:

- The **Admission** section governs admission to participate in trading on the Exchange, the rights, obligations and exclusion of participants, and the suspension and termination of participation.
- The **Trading** section governs the organisation of trading on the Exchange, including how trades come about.
- The **Clearing and Settlement** section describes the clearing and settlement of trades on the Exchange.
- The **Monitoring and Enforcement** section governs how Rule Book compliance and enforcement are monitored, as well as the sanctions that may be imposed in the event of violations.
- The **Final Provisions** govern the confidentiality and partial invalidity of the Rule Book, how it may be amended, its binding nature, applicable law, place of jurisdiction, and transitional provisions.

2.6.2. Directives

The Directives are specific requirements that support and lend specificity to the rules of SIX Swiss Exchange.

Admission	<p>Directive 1: Admission</p> <ul style="list-style-type: none"> • Admission process • Admission as a market maker • Deposit • Appropriate organisation • Registration requirements and trader examination <p>Directive 2: Technical Connectivity</p>
Trading	<p>Directive 3: Trading</p> <ul style="list-style-type: none"> • Trading day and trading period • Clearing day • Trading hours • Order and quote • Price-time priority • Auction and principle of highest executable volume • Continuous trading • Reference price adjustment • Trade suspension • Market models • Reporting of trades to the Exchange • Correction and cancellation of trades • Trading segments with detailed rules for each segment • Trading on a separate trading line (equities)
Trading	<p>Directive 4: Market Control</p> <ul style="list-style-type: none"> • Mistrades • Extraordinary situations <p>Directive 5: Alternative Trading</p>
Data/Sponsored Access	<p>Directive 6: Market Information</p> <p>Directive 7: Sponsored Access</p>

2.6.3. Listing Rules

LR Art. 1

LR Art. 1 Purpose

The purpose of the Listing Rules ("LR") is to provide **issuers** with access to exchange trading that is as free and equal as possible, and to ensure transparency for investors with regard to issuer quality and the characteristics of individual securities

The **Listing Rules (LR)** and the applicable implementing rules govern both the admission of securities to trading on SIX Swiss Exchange and the obligations of issuers during the listing process.

Admission to listing

It is important to differentiate between the issue and marketing of new securities (**primary market**) and the admission of securities to trading (**secondary market**). All rules pertaining to the primary market are set out in the Swiss Code of Obligations (CO) and cover aspects such as the requirement to produce a prospectus and liability in respect of prospectuses. The Listing Rules govern the secondary market and, as prescribed in FinIA, set out requirements relating to issuers, securities, and the disclosures that must be made with respect to listing.

Provided the issuer has satisfied the requirements set out in the LR, it will be legally entitled to have its securities listed on SIX Swiss Exchange.

Requirements for continued listing

The Listing Rules also lay down the requirements for continued listing.

3. Admission of securities to trading

3.1. Legal framework

**FMIA
Art. 35**

Article 35 FMIA requires stock exchanges to issue rules and regulations on the listing of securities and the admission of securities to trading. These rules and regulations must take account of recognised international standards and in particular must contain provisions on

- the tradability of securities;
- the publication of information on which investors rely for assessing the characteristics of securities and the quality of the issuer;
- the duties of the issuer, its representatives and third parties for the entire duration of the listing or admission of securities to trading;
- the obligation to comply with the provisions of the Swiss Auditor Oversight Act (AOA).

3.1.1. Hierarchy of rules and regulations: overview of SIX Swiss Exchange listing rules

<p>Listing Rules</p> <ul style="list-style-type: none"> • General Provisions • Equity securities general • Special Capital <ul style="list-style-type: none"> a. Investment Companies b. Real Estate Companies c. Sparks d. SPACs e. Global Depository Receipts f. Collective Investment Schemes 	<p>Additional Rules for Bonds</p> <ul style="list-style-type: none"> • Additional Rules for Bonds • Additional Rules for Derivatives • Additional Rules for Exchange Traded Products (ETPs)
<p>Directives Supplementary information and detailed explanations</p>	
<p>Circulars Commentary on rules and regulations and detailed explanation of administrative aspects</p>	

3.1.2. Listing Rules

Topmost in the hierarchy of SIX Swiss Exchange rules and regulations are the Listing Rules (LR). The Listing Rules govern the admission of equity securities. However, the Listing Rules are also the rules from which all other SIX Swiss Exchange listing-related rules are derived.

3.1.3. Additional Rules

The Additional Rules have the same status as the Listing Rules. Each set of Additional Rules set out rules regarding the specific requirements for admission to a given Exchange segment, but also make reference to the Listing Rules and the related implementing provisions.

3.1.4. Directives

Specific Directives serve to supplement and explain in detail the provisions of the various rules and regulations. They frequently include normative implementing provisions and are always derived from a specific set of rules (Listing Rules or Additional Rules).

3.1.5. Circulars

Circulars provide commentary on the various rules and regulations, and explain in detail the administrative aspects of implementing those rules in practice.

3.1.6. Communiqués

Communiqués are used to publish individual decisions and provide information on specific provisions of the Listing Rules.

3.2. Regulatory Standards of SIX Swiss Exchange

There are various different Standards applying to listing, each of which place specific requirements on the issuers or the securities that are to be listed.

Regulatory Segmentation								
	International Reporting Standard	Swiss Reporting Standard	Investment Companies	Real Estate Companies	Sparks	SPACS	GDRs	Collective Investment Schemes
Duration	3 years	3 years	Not applicable	Not applicable	2 years	Not applicable	3 years	Not applicable
Capitalisation	CHF 25 million shareholders' equity	CHF 25 million shareholders' equity	CHF 25 million shareholders' equity	CHF 25 million shareholders' equity	CHF 12 million equity capital, of which CHF 8 million from capital increase or CHF 25 million equity capital	CHF 25 million shareholders' equity	CHF 25 million shareholders' equity	CHF 100 million shareholders' equity or market making contract
Minimum Free Float Capitalisation	CHF 25 Mio.	CHF 25 Mio.	CHF 25 Mio.	CHF 25 Mio.	CHF 15 Mio. and 50 investors	CHF 25 Mio.	CHF 25 Mio.	CHF 25 million fund assets
Distribution	20% free float	20% free float	20% free float	20% free float	15% free float	20% free float	20% free float in GDR	20% free float
Reporting	Annual and semi-annual	Annual and semi-annual	Annual and semi-annual, NAV (Net Asset Value) publication, investment policy	Annual and interim report, investment policy	Annual and semi-annual	Annual and semi-annual	Annual and semi-annual	Annual and semi-annual
Financial Reporting	IFRS/US GAAP	Swiss GAAP FER/ Accounting standard under banking law	IFRS/US-GAAP	IFRS/Swiss GAAP FER/ Accounting standard under banking law	IFRS/US-GAAP/Swiss GAAP FER/ bankengesetzlicher Rechnungsstandard	IFRS/US GAAP	IFRS/US GAAP	According to applicable special legal provisions

3.2.1. International Reporting Standard

LR Art. 10
to 26

The majority of exchange-traded securities (equity securities, bonds and derivatives) are listed under the International Reporting Standard. The applicable admission requirements are set out in the Listing Rules. These lay down, in particular, stringent transparency requirements with which issuers must comply.

3.2.2. Swiss Reporting Standard

LR Art. 10
to 26

The Swiss Reporting Standard differs from the International Reporting Standard only in respect of the accounting standards permitted. Companies with equity securities listed under the Swiss Reporting Standard must use Swiss GAAP FER, whereas only IFRS and US GAAP are permitted under the International Reporting Standard.

3.2.3. Standard for Investment Companies

LR
Chapter A
Art. 10 to 26

Investment companies are combined under a separate regulatory standard. These companies are collective investment vehicles whose main purpose is to generate income and/or capital gains, without engaging in any actual entrepreneurial activity as such. In terms of their investment strategy such companies are often comparable to investment funds (see Art. 65 ff. of the Listing Rules).

Special rules in comparison to the general standards of the Listing Rules:

- The rule that a company must have been in existence for at least three years does not apply here.
- The investment policy must be explained in detail in the listing prospectus.
- Any changes in the investment policy must be publicly announced.
- The net asset value (NAV) must be published at regular intervals, at least quarterly.

3.2.4. Standard for Real Estate Companies

LR
Chapter B
Art. 77 ff.

Real estate companies are also subject to special rules. A company qualifies as a real estate company if at least two-thirds of its revenues derive from real estate activities, specifically from rental income, income from revaluations or sales, and from real estate services (see Listing Rules Art. 77 ff.).

- Special rules compared to the general standards of the Listing Rules The rule that a company must have been in existence for at least three years does not apply here.
- The listing prospectus must provide details of the various investment properties.
- Any changes in the investment policy must be publicly announced.

3.2.5. Standard for Sparks

LR
Chapter C
Art. 89a ff.

In the regulatory standard Sparks, equity securities from issuers with a capitalisation of CHF 500 million or less at the time of listing may be listed (see Art. 89a et seq. LR).

- Special rules compared to the general standards of the Listing Rules:
- the issuer must have existed as a company for at least two years
- the issuer's reported equity capital on the first day of trading must be a minimum of CHF 12 million in accordance with the applicable financial reporting standard, of which at least CHF 8 million must come from a capital increase (against cash payment) in connection with the listing. No capital increase is required if the issuer's reported equity capital is at least CHF 25 million in accordance with the applicable financial reporting standard on the first day of trading.
- 15% of all of the issuer's outstanding securities in the same category are in public ownership, and the capitalisation of those securities in public ownership amounts to at least CHF 15 million, and

these securities are allocated to at least 50 investors.

3.2.6. Standard for Sparks

LR
Chapter C
Art. 8ha ff.

Special Purpose Acquisition Companies (SPACs) within the meaning of the Listing Rules are companies limited by shares according to Swiss law whose exclusive purpose is the direct or indirect acquisition of an acquisition target (or, in the case of simultaneous acquisition, of several acquisition targets) or the combination with one or more operating acquisition targets (De-SPAC) and which are dissolved after a maximum of three years from the first trading day, provided that no De-SPAC has been completed by then.

Special rules compared to the general standards of the Listing Rules:

- The rule that a company must have existed for at least three years is not applicable here.
- The money raised in the initial public offering (IPO) (Issue proceeds) must be deposited in an escrow account.
- Additional information must be provided in the listing prospectus, such as the founders, potential conflicts of interest and the target industry for the acquisition.
- For IPO shares, there is a right of redemption at the De-SPAC (Art. 89h para. 3 LR).
- IPO shares are privileged over all other classes of shares in the event of bankruptcy.
- With regard to the De-SPAC, an information document is to be prepared and published (Art. 5 RLSPAC).

3.2.7. Standard for Global depository receipts

LR
Chapter C
Art. 90 ff.

In the context of the Listing Rules, global depository receipts (GDRs) are tradable certificates which are issued to represent deposited equity securities, and which permit the (indirect) exercise of the membership and property rights attached to the deposited equity securities. The deposited equity securities are referred to as "underlying shares". The issuer of the global depository receipts is referred to as the "depository".

Special rules compared to the general standards of the Listing Rules:

- The rule that a company must have existed for at least three years refers to the issuer of the underlying shares.
- The rules on capitalisation and minimum capitalisation refer to the issuer of the underlying shares; those on free float and spread refer to the depository receipts.
- In connection with the listing of depository receipts, the issuer of the underlying shares must make an issuer's declaration.

3.2.8. Standard for Collective Investment Schemes

LR
Chapter E
Art. 105 ff.

Section E of the Listing Rules, which sets forth rules on the listing of **collective investment schemes**, applies to the listing of units (or shares) of domestic or foreign collective investment schemes which are subject to FINMA supervision under the Federal Act on Collective Investment Schemes of 23 June 2006 (CISA). Accordingly, **Exchange Traded Funds (ETFs)** listed on SIX Swiss Exchange are also governed by the aforementioned rules.

3.2.9. International bonds

Rules for the
Admission of
International
Bonds

The Rules for the Admission of International Bonds to Trading on SIX Swiss Exchange exclusively and conclusively govern the aspects relevant to international bonds. The Listing Rules do not apply either with regard to procedure or with regard to disclosure obligations. Issuers of international bonds that have been

admitted to trading in this segment are not obliged to provide SIX Swiss Exchange with a prospectus or periodic reports. International bonds traded on SIX Swiss Exchange are therefore only deemed to be admitted to trading, rather than listed within the meaning of the LR. International bonds are therefore traded exclusively in a special segment for international bonds, the International Bonds segment.

At SIX Swiss Exchange trading in international bonds is subject to the following criteria:

- The international bond must already be listed on an exchange recognised by the SIX Swiss Exchange Admission Board.
- The international bond must be denominated and capitalised in a manner that allows the assumption to be made that market-consistent trading can take place in the International Bonds segment, and
- Settlement of transactions in the international bond must be handled by a clearing house recognised by SIX Swiss Exchange.

3.3. Listing

3.3.1. Conditions for listing

LR Art. 9
to 26

The LR lays down the conditions that both issuers and securities (debt and equity) must meet for admission to trading on SIX Swiss Exchange.

Requirements for issuers

LR Art. 10
to 16

The issuer must meet the following requirements:

- The incorporation, articles of association or partnership agreement must be in accordance with the national law to which the issuer is subject.
- The issuer must have existed as a corporate entity for at least three years.
- For the three full financial years prior to submission of the listing application, the issuer's annual financial statements must have been prepared in accordance with the accounting standards applying to the issuer.
- In appointing auditors, the issuer must meet the requirements for auditors set out in Arts. 7 and 8 of the Federal Act on the Licensing and Oversight of Auditors.
- The auditors appointed in accordance with Art. 13 must state in their report whether or not the issuer's accounts have been prepared in accordance with the financial reporting standards applied.
- The issuer's reported equity capital must be at least CHF 2.5 million on the first day of trading in accordance with the financial reporting standards applied in the listing prospectus.
- If the issuer is the parent company of a group, the above requirement refers to consolidated reported equity capital.
- The Regulatory Board may determine further requirements for issuers where such requirements are warranted due to the nature of the business or the securities to be listed.

Requirements for securities

LR Art. 17
to 26

Securities must meet the following requirements:

- They must be issued in accordance with the law applying to the issuer and comply with the applicable rules and requirements for the issue of securities.
- They must comply with the principle of listing according to class. This means that the listing application must relate to all categories of the same security issued to date.
- For debt securities, the issue must have a minimum capitalisation of CHF 20 million.
- For derivatives, the minimum capitalisation of the issue must amount to CHF 1 million.
- The securities must have an adequate free float at the time of listing.
- The free float is regarded as adequate if at least 20% of all of the issuer's outstanding securities

in the same category are in public ownership, and the capitalisation of those securities in public ownership amounts to at least CHF 25 million.

LR Art. 21 Tradability The securities must be negotiable (i.e. freely tradable). Securities that are subject to approval or to restrictions with respect to potential purchasers, as well as securities that are not fully paid in, may be listed if their tradability is guaranteed and there is no risk to the fulfilment of a transaction.

LR Art. 23 Clearing Stock exchange transactions must be cleared through an official clearing agency designated by SIX Swiss Exchange.

The issuer must ensure that services pertaining to income, interest and capital, as well as all other corporate actions, including the receipt and handling of exercise notices in the case of derivatives, are provided in Switzerland.

LR Art. 24 Paying agents The issuer may assign the activities referred to in Art. 24 LR, paragraph 1 to a third party, if the latter has the necessary professional and technical capabilities available in Switzerland. The assigned party must be a bank, a securities dealer, some other institution that is subject to supervision by the Swiss Federal Banking Commission, or the Swiss National Bank.

3.3.1.1. Advantages of listing on SIX Swiss Exchange

There are many advantages in listing for businesses:

- Transparent pricing. Abuses can be prevented
- Review of listing documents and market control
- Better distribution (controlled prices and increased liquidity build investor confidence)
- PR instrument for the listed company
- Trading in listed securities is significantly more efficient, allowing companies to track transactions and securities
- SIX Swiss Exchange prices are binding for the purposes of bank valuations, year-end prices and taxation values (not arbitrary or susceptible to manipulation)
- Listing facilitates investment in pension fund portfolios (institutional investors).

3.3.2. Listing procedure

LR Art. 42 ff. The procedure for listing a company or its securities varies depending on the type of security and transaction. The applicable rules are the Listing Rules and Additional Rules, together with relevant Directives, Circulars and Communiqués.

LR Art. 43 Submitting a listing application In the interests of efficient processing, issuers must be represented by a **recognized representative** within the meaning of Art. 43 LR. The listing application must be submitted in writing to the Admission Board.

LR Art. 44: Content of the listing application The listing application must contain a **short description** of the securities and a **request regarding the planned first trading day** as well as a reference to the enclosures to the application that are required by the Regulatory Board. If certain listing requirements are not met, the listing application must contain a well-founded request for an exemption.

LR Art. 47 Decision The application will be approved if it fulfils the **formal requirements** prescribed by the Listing Rules. However, no substantive examination of the content will be undertaken, which means that no effective assessment can be made with regard to the listed companies.

Bonds and Derivatives - provisional admission

Prior to applying for the listing of bonds or derivatives, it is possible to apply for securities to be listed on a provisional basis. If the request for provisional admission is granted, the securities will in fact be traded on SIX Swiss Exchange but they may not be considered as having been listed. The actual listing takes place at a later date. This means that, in cases of provisional admission, no actual examination procedure has been carried out by the Admission Board. The provisional listing is valid for a maximum of two months and serves to shorten the period of time between issue and the listing of securities.

3.3.2.1. Responsibility for listing on SIX Swiss Exchange: Listing and Enforcement

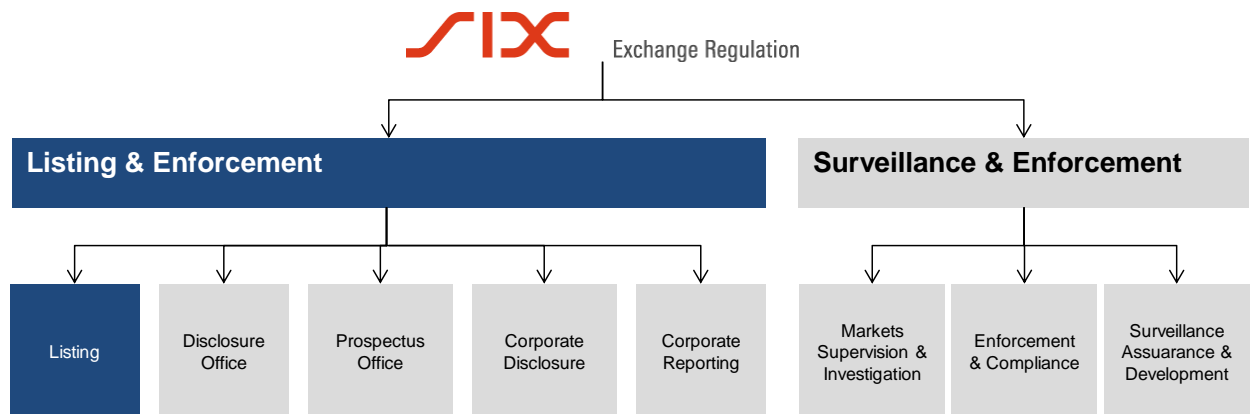


Figure: Organisation chart of SIX Exchange Regulation

SIX Exchange Regulation is responsible for the listing of new securities.

- The Listing Rules, together with the Additional Rules and Directives, are the authoritative rules relating to listing. In addition, there are special rules for admission to trading without listing (Sponsored Segment, international bonds).
- SIX Exchange Regulation is responsible for ensuring transparency in relation to listing procedures and the process of reviewing listing documents.
- The Regulatory Board and Issuers Committee are responsible for decision-making during the listing process.
- SIX Exchange Regulation provides advice to issuers or their recognised representatives in relation to pending listing procedures.
- CONNEXOR Listing is used for the process of listing debt securities.

3.3.2.2. Internet Based Listing (IBL)

In response to the needs of a growing derivatives and bond market, SIX Swiss Exchange supports the admission procedure by means of an automated Internet application (Internet Based Listing, IBL).

IBL allows applicants' databases to be linked to those of SIX Swiss Exchange and provides applicants with a comprehensive overview of their applications at all times. With IBL, products can be traded the day after the submission of the listing application.

IBL delivers multiple cost savings to issuers: issuing is simplified, fees for listing through IBL have been substantially reduced, and listing notices can now be published exclusively online, which means that notices in printed media are no longer required.

For further information, please see: [Internet Based Listing](#)

3.4. Disclosure requirements with respect to listing

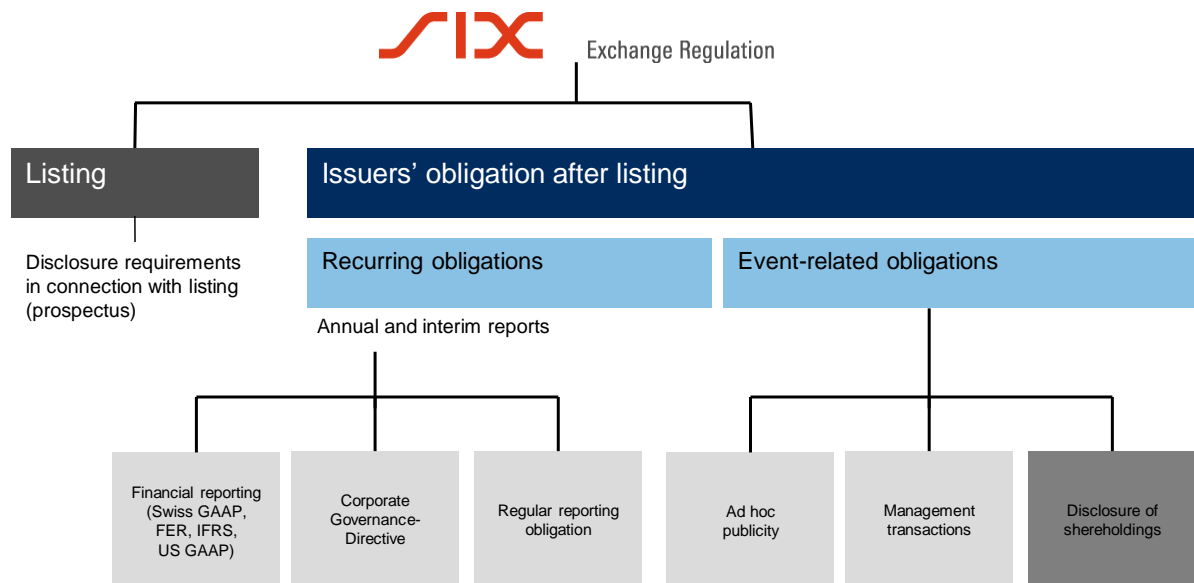


Figure: Disclosure obligations related to a listing

3.4.1. Disclosure Obligation related to a listing

In order for investors to reach an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer, as well as the rights attaching to the securities, the listing of securities is made contingent upon various disclosure requirements being fulfilled by the issuer.

Listing prospectus

By the date on which the securities are listed at the latest, the issuer is required to publish a **listing prospectus** which must contain the following information:

- The persons or companies bearing responsibility for the contents of the listing prospectus
- The securities
- The issuer, including its annual accounts and auditors' report

Details of the listing prospectus are regulated in Annexes 1-7 in the Annex 1-7 of the Financial Market Infrastructure Ordinance, FMIO. These annexes contain several schemes which lay down the individual requirements as to content for different types of issuer and security. The listing prospectus must be produced in German, French, Italian or English and published either.

The following forms of publication are permitted:

- the prospectus may be made available free of charge and delivered in printed booklet or bound form at the issuer's head office and at those financial institutions that are placing the securities;
- electronic publication on the issuer's website and possibly also on the websites of those financial institutions that are placing the securities. It must be possible to access these documents free of charge.

The purpose of the Official Notice is to make the investing public aware of the proposed listing, the options for obtaining the prospectus free of charge, and any material changes compared with the information contained in the prospectus. The Official Notice is published on the SIX Exchange Regulation website. An RSS feed is also available for interested parties.

3.4.2. Recurring disclosure obligations

LR
Art. 49 ff.

Listing places a series of obligations on issuers. Of primary importance are the transparency requirements, which include in particular:

3.4.2.1. Disclosure requirements

Disclosure requirements on going public and in the event of any changes in capital structure:

A listing application and the publication of a listing prospectus and listing notice, as applicable, are generally required at the time of initial listing on a stock exchange and in the event of any material changes in capital structure.

3.4.2.2. Reporting obligations

Issuers are required to report certain technical and administrative matters and events, including changes of name, amendments to their articles of association and changes of address.

For the purposes of continued listing, certain matters (Arts. 49-56 [Listing Rules](#)) must be reported to SIX Exchange Regulation (Listing & Enforcement).

Fulfilment of these reporting obligations is a basic requirement for continued listing on SIX Swiss Exchange. SIX Exchange Regulation is responsible for the enforcement of reporting obligations, and reserves the right to impose sanctions where necessary (Art 59 ff. Listing Rules).

The reporting obligations under stock exchange rules are intended to ensure that technical and administrative information on listed securities is made available to the Exchange and market participants in a timely manner and appropriate form. The information presented to SIX Exchange Regulation enables the Exchange to ensure smooth and orderly trading.

Circular No. 1_ and the CONNEXOR® Reporting electronic reporting platform have been created to facilitate the technical and administrative fulfilment of reporting obligations by issuers.

3.4.2.3. Financial reporting

Within four months of the end of the financial year, the issuer must publish and submit to the Admission Board an annual report. The report consists of the balance sheet, income statement, statement of cash flows, statement of changes in shareholders' equity and notes. The issuer must also publish an interim report covering a period of six months or less within three months of the end of the reporting period (see Arts. 49-51 LR).

The financial reports must give a true and fair view of the issuer's assets and liabilities, financial position and profits and losses. Accordingly, the annual report must be prepared in accordance with the "true and fair view" principle to ensure the necessary transparency for investors. Under the International Reporting Standard of SIX Swiss Exchange, US GAAP and IFRS are the recognised accounting standards, while issuers under the Swiss Reporting Standard must use Swiss GAAP FER or an accounting standard under banking law.

3.4.2.4. Corporate Governance

The Directive Corporate Governance, DCG sets forth the issuer's obligation to provide investors, in a suitable form, with information on **management and supervision at the highest level of the company**. This information must be published in a separate section of the annual report.

3.4.3. Event-driven disclosure obligations

3.4.3.1. Ad-hoc publicity

LR
Art. 53

The rules on ad hoc publicity are intended to ensure that issuers inform the public in a fair and transparent manner and at the earliest possible stage about significant developments and changes in their company. Transparency and equal treatment for investors, together with the proper functioning of the securities markets, must be guaranteed by providing both actual and potential market participants with new and potentially price-sensitive information quickly and fairly. Ad hoc publicity should also encourage correct pricing. Furthermore, ad hoc publicity prevents insider trading by rapidly reducing information advantages.

The issuer is responsible for timely and correct fulfilment of the duty to provide information when price-sensitive facts emerge (see Arts. 7 to 9 Directive Ad Hoc Publicity, DAH). The issuer makes its decision using its discretion, taking into account the company's internal division of responsibilities. In terms of timing, issuers must organise themselves in such a way that timely fulfilment of its obligations to provide information is always guaranteed.

Art. 53 Listing Rules

¹ The issuer must inform the market of any price-sensitive facts which have arisen in its sphere of activity. Price-sensitive facts are facts whose disclosure is capable of triggering a significant change in market prices. A price change is significant if it is considerably greater than the usual price fluctuations.

^{1bis} The disclosure of the price-sensitive fact must be capable of affecting the reasonable market participant in his investment decision.

² The issuer must provide notification as soon as it becomes aware of the main points of the price-sensitive fact.

^{2bis} The disclosure of information on price-sensitive facts must begin with a classification as "Ad hoc announcement pursuant to Art. 53 LR".

3. Disclosure of ad hoc announcements must be made so as to ensure the equal treatment of all market participants.

Facts include, for example:

- Structural changes (e.g. mergers)
- Capital changes
- Any material change in the issuer's profitability
- Any material change in the course of business
- Unexpected personnel changes involving key positions at the company

Disclosure must be made in a manner that ensures to the greatest extent possible the equal treatment of all SIX Swiss Exchange participants. Ad hoc announcements are intended to provide all market participants with information at the same time, thus ensuring market transparency (see Art. 53 LR). Finally, the announcement should lead to more efficient price formation and indirectly also to an increase the liquidity in the respective securities.

The issuer must submit any announcement to SIX Swiss Exchange no later than 90 minutes before the start of trading or its publication.



The ultimate objective is to ensure total market transparency and that information is supplied simultaneously to all market participants.

Note:

It should be noted that rumours, ideas and intentions are not facts.

Deferred publication

However, the issuer may postpone the announcement of price-sensitive information if:

1. The new facts are based on a plan or decision of the issuer; and
2. Its dissemination is likely to prejudice the legitimate interests of the issuer.

In such cases, the issuer must ensure that such facts are kept completely confidential.

Sample question:

What is the purpose of the ad hoc publicity rules?

Answers:

- a) Equal treatment of market participants
- b) Protection against hostile takeovers
- c) To ensure that securities transactions have a business purpose

Answer: a)

Explanation: The purpose of ad hoc reports is to provide information to all market participants at the same time as far as possible. Protection against hostile takeovers falls under the disclosure obligations for shareholdings.

3.4.3.2. Disclosure of management transactions

LR Art. 56

Art. 56 para. 1 LR

The disclosure of management transactions promotes the provision of information to investors, and contributes to the prevention and prosecution of market abuse.

The obligation to disclose management transactions applies to all issuers with **equity securities** with their primary listing on SIX Swiss Exchange.

Members of the issuer's Board of Directors and Executive Board are subject to the disclosure requirement. An individual is required to report a transaction if it has a direct or indirect effect on his/her assets. Transactions carried out by **related** legal and natural **persons** (e.g. life partners) must also be reported if such transactions are carried out under the significant influence of a person who is subject to the reporting obligation.

The reporting obligation applies to the following securities of the issuer:

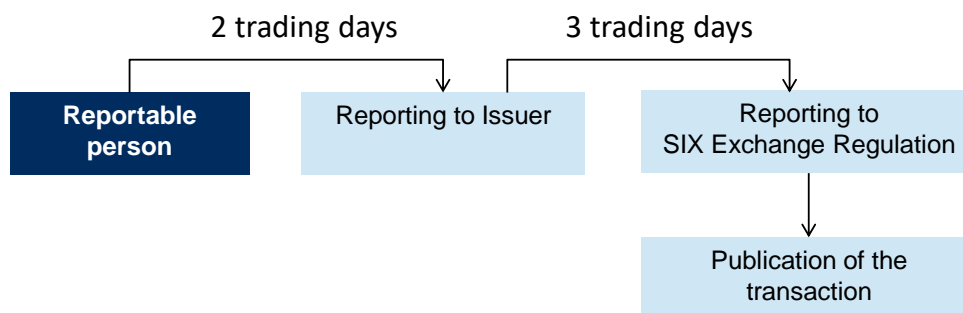
- Equity securities
- Conversion and purchase rights to the issuer's own shares
- Financial instruments the price of which is substantially influenced by the issuer's own equity securities

Reporting Duty

Members of the Board of Directors and Executive Board must report all transactions caught by the rules to the issuer no later than on the second trading day after the transaction has been carried out.

- If the transaction is settled through a stock exchange, the reporting obligation arises upon execution of the transaction.
- If the transaction is not settled through a stock exchange, the reporting obligation arises on conclusion of the transaction that is subject to the obligation.

Issuers must pass the information received from the person subject to the reporting obligation within three trading days to SIX Exchange Regulation using the electronic reporting platform. The details of management transactions are published on the SIX Exchange Regulation website without giving the name of the person concerned, though the person's function is indicated.



SIX Exchange Regulation may impose sanctions against issuers in the event of any breach of obligations to disclose management transactions.

Published notifications may be accessed from the SIX Exchange Regulation website at:

[Management transactions](#)

3.4.3.3. Disclosure of shareholdings

3.4.3.3.1. Overview

The chart below shows the relationship between the disclosure of shareholdings and public takeover offers:

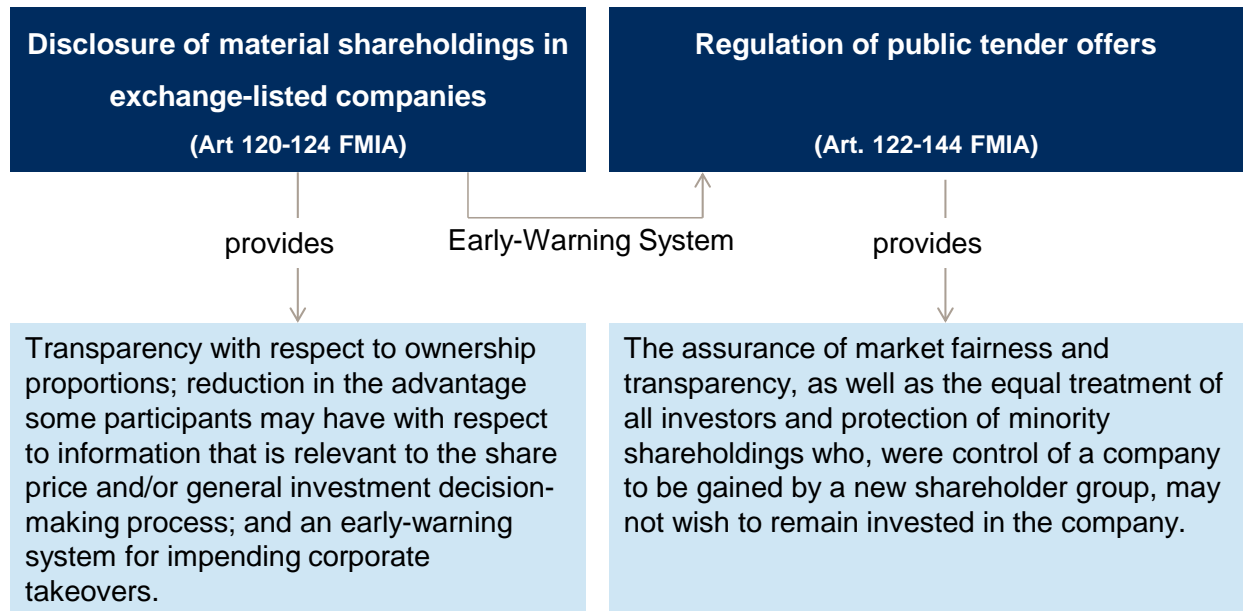


Figure: Relationship between the disclosure of shareholdings and public takeover offers

The disclosure of shareholdings and public takeover offers is a wide-ranging subject. The information below is intended to provide only a brief overview of the key issues.

3.4.3.3.2. Objective and purpose

FMIA Art. 1, Purpose, Art. 120 Obligation to notify

In order to ensure sufficient trading **transparency**, a disclosure requirement applies to significant shareholdings (and changes therein) in companies domiciled in Switzerland that have at least a portion of their equity securities listed on SIX Swiss Exchange, and in companies domiciled abroad that have the main listing of their equity securities in Switzerland.

The requirement for significant shareholders to disclose information has two principal purposes:

- Firstly, to ensure transparency with regard to major shareholdings and economic interests in a company and hence the equal treatment of all market participants in terms of that information.
- Secondly, the disclosure obligation is intended, among other things, to prevent **creeping tender offers** or the **covert** sale of significant shareholdings.
-

3.4.3.3.3. Basis in statutes and implementing ordinances

FMIA Art. 120 ff FMIO-FINMA 10ff

The legal basis for the disclosure of shareholdings can be found in Art. 120 ff. FMIA. In addition to the applicable provisions of the Financial Market Infrastructure Act, the FMIO-FINMA specifies when the obligation arises, the scope of the obligation and the reporting procedure.

In particular, the Ordinance defines

- the scope of the disclosure obligation,

- the distinction between purchase and sale positions,
- which equity derivatives must be notified,
- notification obligations in respect of securities lending and comparable transactions,
- the calculation of positions that are to be notified,
- exemptions from disclosure requirements for banks and securities dealers,
- who is required to make disclosure and the applicable deadlines,
- how the company should publish notifications.

It also specifies the procedure for handling requests for preliminary decisions as to whether or not a notification obligation exists and for handling requests for exemptions and relief.

3.4.3.3.4. Time at which the reporting obligation arises

**FMIA
Art. 120,
Obligation
to notify**

Anyone who directly, indirectly or in concert with third parties acquires or sells shares or purchase or sale rights to the shares of a company domiciled in Switzerland the equity securities of which are listed in Switzerland, or a company domiciled abroad with the main listing of its equity securities in Switzerland, and thereby attains, falls below or exceeds the threshold percentages of **3, 5, 10, 15, 20, 25, 33⅓, 50 or 66⅔ percent of voting rights**, whether or not such rights may be exercised, must notify the company and the stock exchanges on which the equity securities in question are listed. The matter must be reported within four trading days of the reporting obligation arising, both to the company concerned and to SIX Swiss Exchange.

Example:

The Commercial Register entry for Y AG, a company that has its registered office in Zurich and is listed on SIX Swiss Exchange, shows the following allocation of shares:

1,000,000 registered shares at CHF 50	CHF 50,000,000
5,000,000 bearer shares at CHF 100	CHF 500,000,000
<hr/>	
6,000,000 shares	CHF 550,000,000

Because the articles of association of Y AG provide for voting shares¹, the total number of voting rights for this company therefore amounts to 6,000,000.

Shareholder Z, who did not previously hold any Y AG shares or equity derivatives, purchases 200,000 registered shares as well as 500 call options that grant the holder the right to acquire 50,000 bearer shares.

The voting rights can now be calculated as follows:

$$\frac{\text{Number of voting rights purchased} \times 100}{\text{Total number of voting rights as shown in the Commercial Register}} = \frac{250,000 \times 100}{6,000,000}$$

= **4.17%** of the voting rights for Y AG

Because the statutory threshold of 3% of the voting rights has been exceeded, this purchase triggers the obligation to notify in accordance with the FMIA.

¹ see Art. 693 CO

3.4.3.3.5. Duty to inform

FMIA
Art. 124

A company (issuer) that receives a corresponding disclosure notification has a publication obligation. It is required to publish the information notified to it within two trading days.

The SIX Swiss Exchange Disclosure Office has provided an electronic publication platform for this purpose in accordance with Art. 25 FMIO-FINMA.

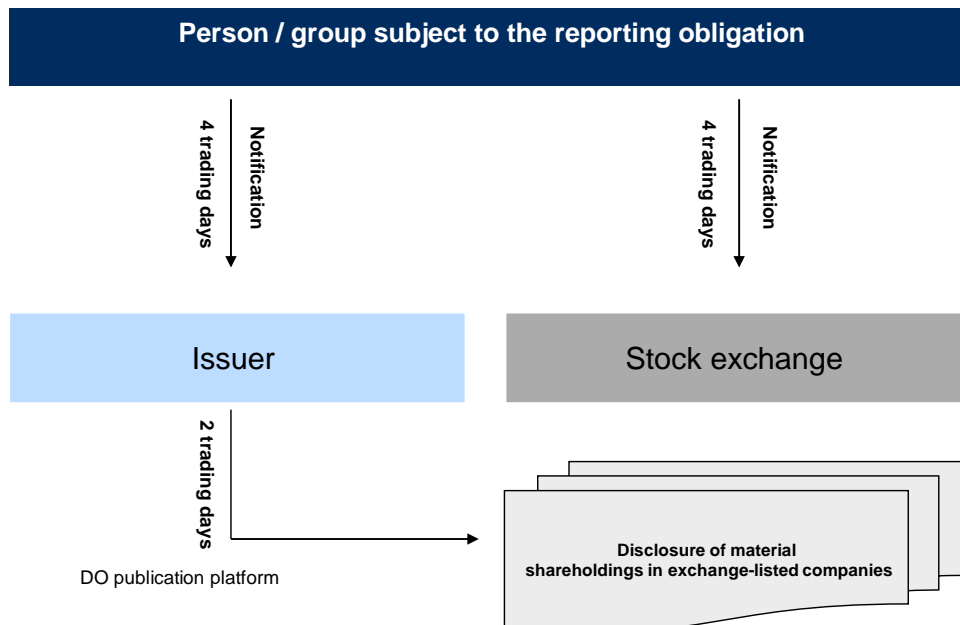


Figure: Obligation to provide information to the issuer and the stock exchange

FMIA
Art. 121

3.4.3.3.6. Notification duty for organised groups

A group organised pursuant to an agreement or otherwise must comply with the notification duty laid down in Article 120 as a group and shall disclose:

- its total holdings;
- the identity of its members;
- the nature of the agreement;
- the representation.

Remark

There is no notification duty, if a threshold is temporarily achieved, exceeded or fallen below during a trading day.

FMIA
Art. 122

3.4.3.3.7. Breaches of disclosure obligations

Where there are grounds for suspecting a breach of a disclosure obligation, the issuer and SIX Swiss Exchange are obliged to inform FINMA.

FINMA must notify any breaches of disclosure obligations of which it becomes aware to the Federal Department of Finance, which will make a determination on the matter and initiate any law enforcement proceedings.

3.4.3.4. Criminal sanctions

FMIA Arts. 144, 151 Where a breach of a disclosure obligation has been committed, criminal sanctions may be imposed. In the case of a deliberate breach of the reporting obligation in respect of a listed company, a fine not exceeding CHF 10 million may be imposed.

In **cases of negligence**, the maximum fine is CHF 100,000. In addition, voting rights may be suspended and individuals prohibited from acquiring further shares in a company.

3.4.3.5. Public takeover offers

FMIA Art. 125 ff. Public takeover offers mean any offer to purchase or exchange shares, participation or profit-sharing certificates or any other equity securities which is made publicly to the holders of shares or other equity securities of Swiss companies whose equity securities are, in whole or in part, listed on an exchange in Switzerland.

3.4.3.5.1. Objective and purpose

The rules on public takeover offers are aimed at ensuring the integrity and transparency of the market as well as the equal treatment of investors in the event of corporate takeovers.

3.4.3.5.2. The obligation to make an offer

FMIA Arts. 135, 136 Whosoever, directly, indirectly or acting in concert with third parties, acquires equity securities which, added to equity securities already owned, exceed the threshold of 33¹/₃ percent of the voting rights of an offeree company, whether or not such rights may be exercisable, is under an obligation to make an offer to acquire all listed equity securities of the company. In certain circumstances, this rule may force a potential purchaser to acquire the entire company rather than just a controlling interest.

The Takeover Board (TB) may, for example, permit exemptions from the obligation to make an offer in the following circumstances:

- where the transfer of voting rights occurs within a group organised pursuant to an agreement or otherwise (investor pools, families)
- where the threshold is exceeded as a result of a decrease in the total number of voting rights of the company
- where the threshold is exceeded only temporarily
- in certain situations related to corporate reorganisations (which may be limited in time)
- in the case of a firm commitment underwriting of share issues
- where the equity securities have been acquired as a result of the devolution or partition of an estate, a donation, matrimonial property regime, or execution proceedings

3.4.3.5.3. Squeeze-out

FMIA
Art. 137

An offeror, who, upon expiry of the offer period for a public takeover bid, holds more than 98% of the voting rights of the offeree company, may within 3 months petition the court to cancel the outstanding equity securities. The company must reissue the cancelled securities to the offeror at the offer price. This rule effectively encroaches on a holder's property rights, but it is deemed to be justifiable in that the interests of the offeror, who now holds 98% of the votes, merit a higher level of protection than those of the remaining minority shareholders. In addition, it is often the case that certain equity securities can no longer be located.

Further information is available on the website of the Takeover Board www.takeover.ch

3.4.3.5.4. Opting up

FMIA
Arts. 135
para. 1

Under Article 135 (1) FMIA, a target company may raise this threshold in its articles of association to 49% of the voting rights, and thus postpone the obligation of any potential offeror to make an offer. This makes it easier to purchase controlling minority interests in a company without dispensing altogether with the protection afforded to small investors.

3.4.3.5.5. Opting out

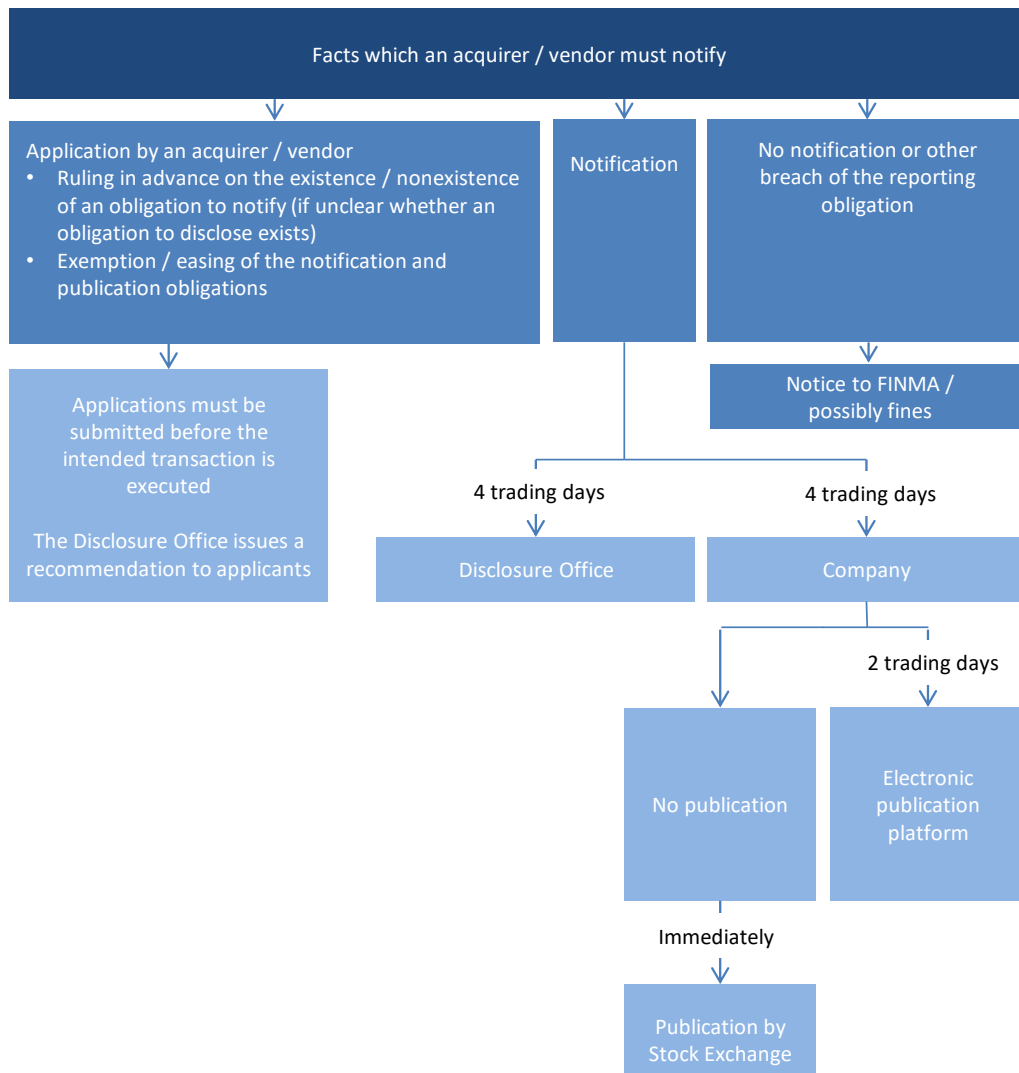
FMIA
Arts. 125

Target companies may also opt out of the rules governing public tender offers (Article 125 FMIA). The company may record this in its articles of association prior to listing its equity securities. The company may avail itself of this option at any time – even after listing – provided that this does not prejudice the interests of its shareholders within the meaning of Article 706 of the Swiss Code of Obligations (CO).

In these circumstances, a potential acquirer is fully released from the obligation to make a public takeover offer for all listed shares of the offeree company, even when acquiring more than 33¹/₃ percent of the voting rights.

Example for Opting-Up und Opting-Out: [Link](#)

3.4.3.5.6. Overview of disclosure and publication procedures



3.5. Suspensions

3.5.1. Suspension of trading

SIX Exchange Regulation may temporarily suspend the trading of securities at the request of the issuer or on its own initiative if unusual circumstances, specifically the **breach of important disclosure obligations** by the issuer, indicate that such a suspension is advisable (see Art. 57 LR).

3.5.2. Delisting

The Regulatory Board may cancel the listing of securities in the following cases:

- Following a justified application by an issuer, whereby the Regulatory Board must take into account the interests of stock exchange trading, investors and the issuer. The Regulatory Board may make delisting conditional upon due notice and the observance of appropriate waiting

periods. In any event, proof must be submitted that the responsible bodies within the issuer agree to the delisting.

- If the solvency of the issuer is in serious doubt, if insolvency or liquidation proceedings have already commenced, the securities will be delisted no later than the time at which their tradability is no longer guaranteed.
- If the Regulatory Board deems that there is no longer a sufficiently liquid market in the securities.
- If trading has been suspended for a continuous three-month period, and the reasons for the suspension continue to exist.
- If the listing requirements set out in Art. 26 LR are no longer fulfilled.

Missing requirements of the auditing body

If the auditors do not fulfil the requirements set out in Art. 13 LR, SIX Exchange Regulation will require the issuer to appoint, within a reasonable period, an audit firm that satisfies the provisions laid down in Art. 13 LR. The period that has been granted may be extended for important reasons. If the issuer does not provide proof that the auditors are admitted as a state-supervised audit firm in accordance with Art. 7 or 8 AOA within the period granted, the Regulatory Board will instigate delisting proceedings.

In its proceedings, the Regulatory Board will take into account any legal proceedings under federal law, in particular those pertaining to the Commercial Register Ordinance.

4. Penalties and sanctions

4.1. Legislation and provisions

The main focus of legislative provisions and rules is to protect investors and the market. The following issues are explicitly addressed:

- Insider trading
- Price and market manipulation

4.2. Basic principles

Insider trading is defined as when a person uses information to their own advantage or to the advantage of a third party. Market manipulation (or price manipulation) involves influencing prices by providing misleading information and/or executing fictitious transactions. Insider trading and market manipulation are banned because they negatively impact market equilibrium and trust in the markets. Insider trading bans, market manipulation bans and ad hoc publicity complement each other. In the event of a breach, it is often the case that multiple rules are broken.

The problem here is caused by circular processes: With insider trading, the price does not reflect the mutual expectations of the parties to a transaction as there is an information imbalance. The insider can therefore use this to their advantage, while the outsider will be disadvantaged by the transaction; this distorts the price signal. The fact that an insider does not use a piece of information in the interest of the company, but circularly in their own interest, causes further damage to the company's reputation and development. Thirdly, insider trading and market manipulation can trigger self-reinforcing price trends, which undermines the integrity of the information processes.²



Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (Financial Market Infrastructure Act, FMIA), Articles 142, 143, 154, 155

Purpose

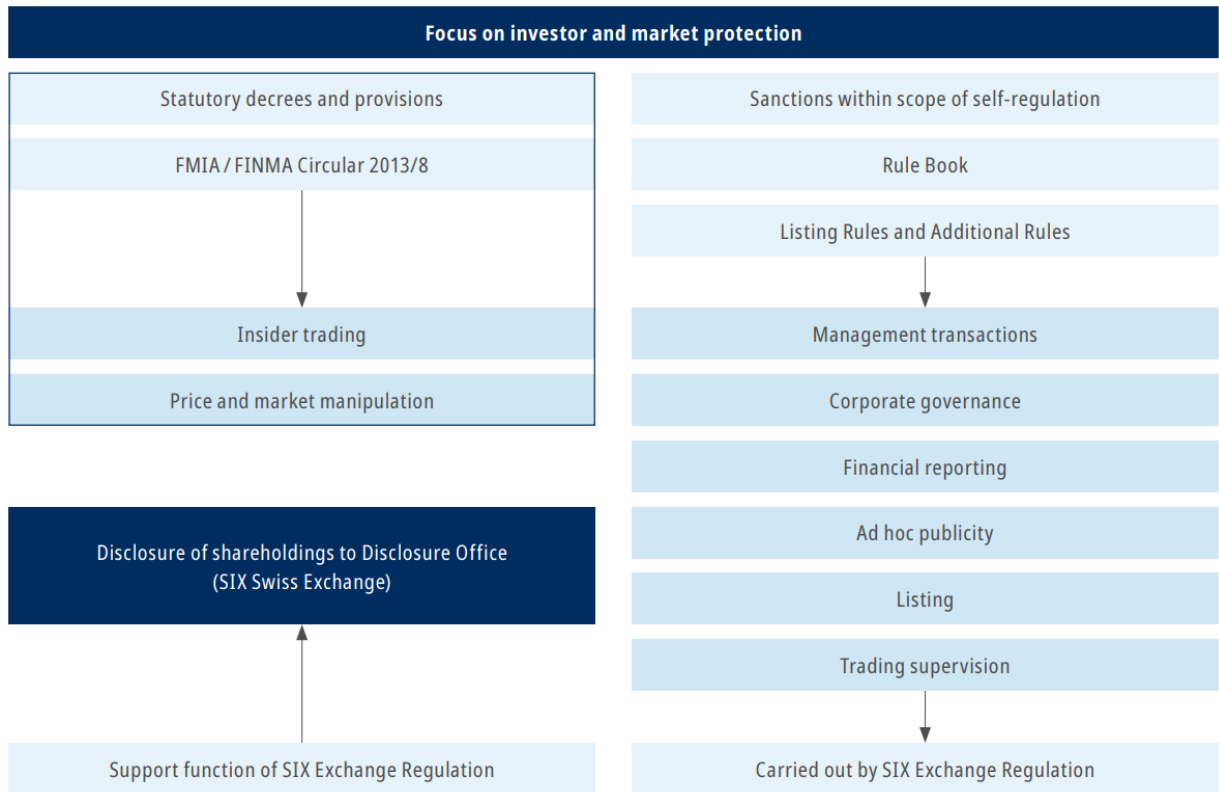
Fair and transparent trading involves market participants having trust in other market participants. This requires having a solid set of instruments to prevent market manipulation and insider trading, and sanctioning any breaches of these. In Switzerland, FINMA and the Office of the Attorney General of Switzerland are authorized to carry out proceedings in this regard.

Insider information is confidential information, which if disclosed, would have a significant impact on the price of a security. FINMA investigates suspicions of criminal activity and prosecutes them with law enforcement agencies – in Switzerland, the Office of the Attorney General. The latter has effective instruments at its disposal and if there is sufficient evidence, it is authorized, for example, to search company premises and access mobile phone and computer records. Sanctions range from bans on practicing a profession, fines and custodial sentences of up to five years. Situations that are critical from a company's perspective include takeover situations and communication with significant shareholders (closely connected to the company). Special care is also required in the event of block trades, trading in own shares or share buy-backs. The legal rules are defined relatively broadly and in individual cases, circumstantial evidence can be enough to secure a conviction.

² Dedeyan, Daniel, Regulierung der Unternehmenskommunikation – Aktien- und Kapitalmarktrecht auf kommunikationstheoretischer Grundlage, Zürich: Schulthess: 2015, 797-885.

Legal basis

In this chapter, we will look more closely at the topic of insider trading and price manipulation. Unlike sanctions within the scope of self-regulation (e.g. ad hoc publicity and management transactions), insider trading and price manipulation is based on certain legal ordinances and provisions.



4.3. Insider trading and price manipulation

FINMA Circular 2013/08

Insider trading and price manipulation are prohibited under FMIA. Further relevant information can be found in sections III – V of FINMA Circular 2013/08 "Supervisory rules for market conduct in securities trading".

4.3.1. Exploiting knowledge of confidential facts (insider trading)

The applicable provisions of FMIA are aimed at preventing insider dealing. These provisions are primarily designed to promote equality of opportunity for investors.

FMIA Art. 142

Art. 142 FMIA Exploitation of insider information

- 1 Any person who has insider information and who knows or should know that it is insider information or who has a recommendation that he or she knows or should know is based on insider information shall behave inadmissibly when he or she:
 - a. exploits it to acquire or dispose of securities admitted to trading on a trading venue in Switzerland

- or to use financial instruments derived from such securities;
 - b. discloses it to another;
 - c. exploits it to recommend to another to acquire or dispose of securities admitted to trading on a trading venue in Switzerland or to use financial instruments derived from such securities.
- 2 The Federal Council shall issue provisions regarding the admissible use of insider information, in particular in connection with:
- a. securities transactions in preparation of a public takeover offer;
 - b. a special legal status on the part of the recipient of the information.

FMIA
Art. 154

Art. 154 FMIA Exploitation of insider information

- 1 A custodial sentence not exceeding three years or a monetary penalty shall be imposed on any person who as a body or a member of a managing or supervisory body of an issuer or of a company controlling or controlled by them, or as a person who due to their holding or activity has legitimate access to insider information, if they **gain a pecuniary advantage** for themselves or for another with insider information by:
- a. exploiting it to acquire or dispose of securities admitted to trading on a trading venue in Switzerland or to use derivatives relating to such securities;
 - b. disclosing it to another;
 - c. exploiting it to recommend to another to acquire or dispose of securities admitted to trading on a trading venue in Switzerland or to use derivatives relating to such securities.
- 2 Any person who through an act set out in paragraph 1 gains a **pecuniary advantage** exceeding one million francs shall be liable to a custodial sentence not exceeding five years or a monetary penalty.
- 3 Any person who gains a **pecuniary advantage** for themselves or for another by exploiting insider information or a recommendation based on insider information disclosed or given to them by a person referred to in paragraph 1 or acquired through a felony or misdemeanour in order to acquire or dispose of securities admitted to trading on a trading venue in Switzerland or to use derivatives relating to such securities shall be liable to a custodial sentence not exceeding one year or a monetary penalty.
- 4 Any person who is not a person referred to in paragraphs 1 to 3 and yet who gains a **pecuniary advantage** for themselves or for another by exploiting insider information or a recommendation based on insider information in order to acquire or dispose of securities admitted to trading on a trading venue in Switzerland or to use derivatives relating to securities shall be liable to a fine.

In summary, anyone who procures a financial benefit for himself or another by exploiting confidential information, which if known, would be likely to have a significant effect on the prices of certain securities, is deemed to be engaging in insider dealing. Potential offenders include anyone who has knowledge of insider information. There are varying degrees of penalty depending on the reasons why a person has insider information and different penalties for primary and secondary insiders and other persons.

Types of insider:

Primary insiders	1. Member of a management or supervisory body 2. Person who has access to insider information by reason of their ownership interest or function Penalty: Term of imprisonment <ul style="list-style-type: none"> • not exceeding 5 years if the financial benefit > CHF 1 million (aggravated primary insider offence) • up to 3 years in other cases
Secondary insiders	1. Persons to whom insider information has been disclosed by a primary insider (e.g. journalists) 2. Persons who have obtained information by committing a crime or lesser indictable offence Penalty: Term of imprisonment not exceeding 1 year or fine
Other persons	Opportunistic insiders (e.g. cleaning staff) Penalty: Fine

Scope of protection

Scope of protection	Integrity of exchange trading
	Equal opportunity for investors

Definition of confidential, price-sensitive facts

Definition of confidential, price-sensitive facts	Confidentiality	The relevant information is only known to a limited number of individuals. It cannot be accessed by outsiders.
	Facts	The information relates to a fact that is to a large extent established and true.
	Price-sensitive	The information relates to circumstances that are capable of materially influencing the market price of securities.

4.3.2. Price manipulation

The principal aims of Articles 143 and 155 FMIA are to preserve investors' trust in a capital market that is fair, undistorted and affords equal opportunity.

**FMIA
Art. 143**

Art. 143 FMIA Market manipulation

- 1 A person behaves inadmissibly when he or she:
 - a. publicly disseminates information which he or she knows or should know gives false or misleading signals regarding the supply, demand or price of securities admitted to trading on a trading venue in Switzerland;

- b. carries out transactions or acquisition or disposal orders which he or she knows or should know give false or misleading signals regarding the supply, demand or price of securities admitted to trading on a trading venue in Switzerland.
- ² The Federal Council shall issue provisions regarding admissible conduct, in particular in connection with:
- a. securities transactions for price stabilisation purposes;
 - b. buyback programmes for a company's own securities.

FMIA
Art. 155

Art. 155 FMIA Price manipulation

- ¹ A custodial sentence not exceeding three years or a monetary penalty shall be imposed on any person who substantially influences the price of securities admitted to trading on a trading venue in Switzerland with the intention of gaining a **pecuniary advantage** for themselves or for another if they:
- a. disseminate false or misleading information against their better knowledge;
 - b. effect acquisitions and sales of such securities directly or indirectly for the benefit of the same person or persons connected for this purpose.
- ² Any person who through activities set out in paragraph 1 gains a pecuniary advantage of more than one million francs shall be liable to a custodial sentence not exceeding five years or a monetary penalty.

Scope of protection

Scope of protection	Preserving market participants' trust in a capital market that is fair, undistorted and affords equal opportunity.
	Protecting the assets of market participants that could be adversely affected by price manipulation

Different types of conduct constituting the offence

Dissemination of misleading information	Fictitious trades
Deliberate dissemination of misleading information	Influencing market prices by giving a false or misleading impression of supply and demand
False statements on market-related facts	Purchases and sales of securities between de facto identical parties at a fictitious price that differs from the market price
Withholding information on market-related matters (duty of disclosure)	Engaging in fictitious transactions on and off the exchange in listed securities
Knowingly making false forecasts, where the expertise or position of the individual concerned makes him appear especially qualified to make the forecast	
Inaccurate information in issue prospectuses or in relation to public takeover bids	
Failing to discharge "ad hoc publicity" obligations with intent to deceive	

Where the offender secures a financial benefit in excess of CHF 1 million, the offence is defined as aggravated. An aggravated criminal offence is deemed to have been committed, which thus qualifies as a predicate offence to money laundering.

It is important to differentiate between price manipulation and market manipulation. Market manipulation is not covered by the penal provisions of FinIA but is governed by regulatory rules, with the result that administrative penalties rather than criminal penalties are imposed. There is no presumption of subjective fault or acting with intent to confer unjust enrichment.

Criminal law	Regulatory rules
Price manipulation under Art. 155 FMIA <ul style="list-style-type: none"> • Wilfully disseminating false or misleading information • Fictitious trades • Intention of exerting significant influence on prices 	Market manipulation under Art. 143 FMIA <ul style="list-style-type: none"> • Disseminating false or misleading information on circumstances of substantial importance for the valuation of a security. • Disseminating false or misleading information, rumours or messages, that are capable of influencing securities prices in order to exploit the resulting price movement. • Giving false or misleading signals with regard to supply, demand or the price of securities (see also FINMA Circular 2013/08 – Market conduct rules)

Price stabilisation

Price stabilisation, by contrast, is not generally deemed to be an offence ...

Price stabilisation

Support purchases are undertaken in an attempt to stabilise the market price of the relevant securities and potentially prevent a price collapse. Because support purchases are costly, which means the party stabilising the prices generally incurs direct financial loss, it is not possible to demonstrate any unlawful gain. Moreover, the practice does not involve either misleading information or purchases/sales, where the purchase and sale was entered into for the account of the same person. The criminal offence of price manipulation pursuant to Art. 155 FMIA does therefore not apply to such price-stabilising transactions.

4.3.3. FINMA Circular 2013/08: Supervisory rules for market conduct in securities trading

FINMA
Circular
2013/08

Market participants are also expected to exhibit proper conduct over and above conduct that does not warrant a criminal penalty. The supervisory prohibitions based on the principles of proper business conduct go beyond the criminal offences cited and are significant in their own right. In this connection, FINMA adopted the revised Circular 2013/08 "Supervisory rules for market conduct in securities trading" that replaces FINMA Circular 2008/38 "Market conduct rules for the securities market".

The revised Circular provides market participants with **guidelines and pointers as to what constitutes proper market conduct** under the regulatory rules. The Circular gives concrete examples of proscribed conduct and sets out the organisational requirements for avoiding conflicts of interest. It sets out specific details of FINMA's supervisory practices in combating market abuse. It is directed at all market participants regarding conduct prohibited under stock market law. It also contains additional organisational requirements for institutions subject to prudential supervision by FINMA, e.g. securities dealers, banks, insurance companies and exchanges.

The most significant changes are as follows:

- In assessing whether information is confidential, the decisive factor is now whether unconnected third parties can obtain it from generally accessible sources.
- The "reasonable user test", which uses the behaviour of a reasonable market participant who is familiar with the market as the benchmark for assessing rule violations, is now applied to insider trading in deciding whether information is price-sensitive and also to market manipulation in determining whether a signal exists.
- The examples of conduct that violate the ban on market manipulation have been made more precise. In addition, the list of permissible transactions and conduct has been expanded.
- Regarding the organisation of areas of confidentiality within institutions subject to prudential supervision, it is sufficient if the individuals who actually have the power to make decisions with respect to trading in securities do not possess insider information and, conversely, those who possess insider information do not have the power to make decisions with respect to trading in securities.
- Not all telephone calls within supervised institutions have to be recorded, only those made by staff working in the trading room of a securities dealer.

4.4. Sanction proceedings in the context of self-regulation

Procedure for investigating and imposing sanctions in respect of breaches of the following rules and related implementing rules of the exchanges that are regulated by the regulatory bodies of SIX Group Ltd:

- The Rule Books of SIX Swiss Exchange
- Listing Rules (LR) and Additional Rules.

Only those sanctions which are contained in the Rule Book or the LR and the Additional Rules will be imposed, and only against individuals or legal entities which are subject to the relevant rules and regulations (the "Party/Parties Concerned").

Any conflicts of interest affecting individuals within the investigative bodies must be reported immediately. Recusal may be declared by the persons involved in the sanction proceedings or demanded by those involved in the proceedings.

The investigative bodies may terminate sanction proceedings by entering into an agreement with the Party Concerned (amicable agreement). Agreements are permitted in trivial cases or to expedite proceedings. Agreements must be published.

4.4.1. SIX Swiss Exchange investigative bodies

The Surveillance & Enforcement department of SIX Exchange Regulation is responsible for investigating breaches of the Rules Books of SIX Swiss Exchange Ltd and the related implementing rules.

The Listing & Enforcement of SIX Exchange Regulation is responsible for investigating breaches of the Listing Rules, the Additional Rules and the implementing regulations.

Unless these Rules stipulate otherwise, sanctions will be imposed by the Sanctions Commission.

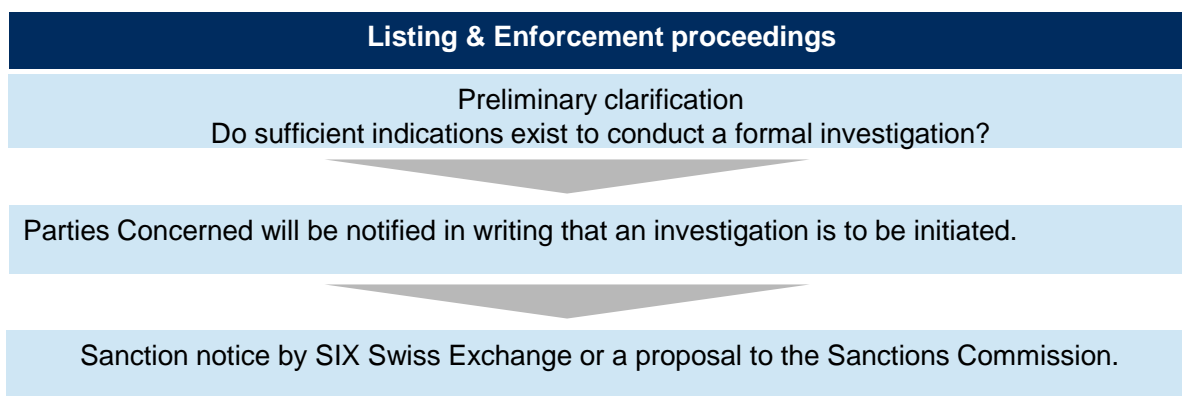
Rules	Investigating body
Rule Book	Surveillance & Enforcement
Listing Rules	Listing & Enforcement

4.4.2. Listing & Enforcement proceedings

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.

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. No appeal may be lodged against the opening of an investigation.

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.



4.4.3. Surveillance & Enforcement proceedings

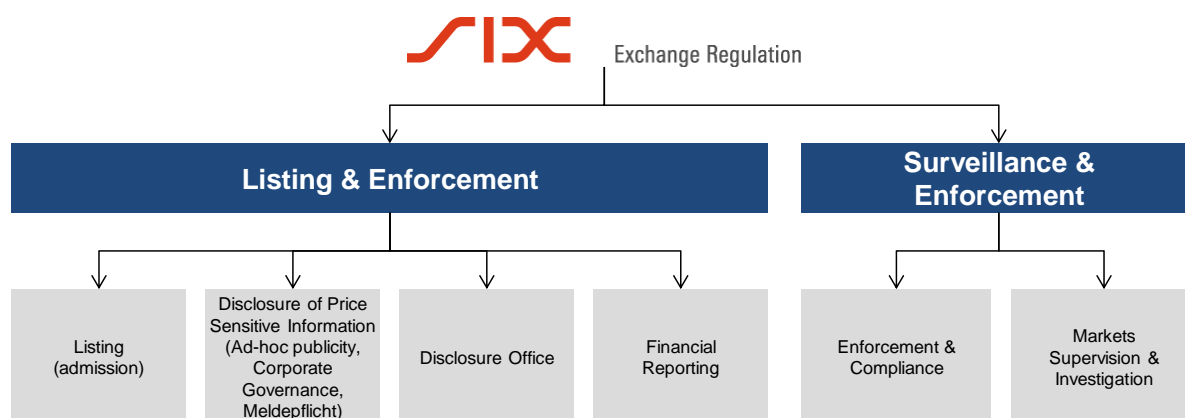


Figure: Organisation chart of SIX Exchange Regulation

SVE consists of two departments:

- Markets Supervision & Investigations (MSI)
- Enforcement & Compliance (ENC)

MSI carries out the "investigative" function, ENC the "prosecutorial" function.

Markets Supervision & Investigations (MSI)

Markets Supervision & Investigations (MSI) is responsible for overseeing trading on SIX Swiss Exchange in respect of compliance with

- trading-specific rules
- the provisions of stock exchange legislation
- the provisions of criminal law

Enforcement & Compliance (ENC)

The activities of Enforcement & Compliance (ENC) comprise:

- Carrying out sanctions proceedings against participants and traders. Applying to the Sanctions Commission in the case of participants or to SVE Management in the case of traders for commencement of sanctions proceedings.

- Preparing the audit programme for the audit of participants of SIX Swiss Exchange, processing the audit reports received and initiating any action that may be required as a result
- Providing legal assistance and advice to SVE during investigations
- Processing appeals from participants and third parties

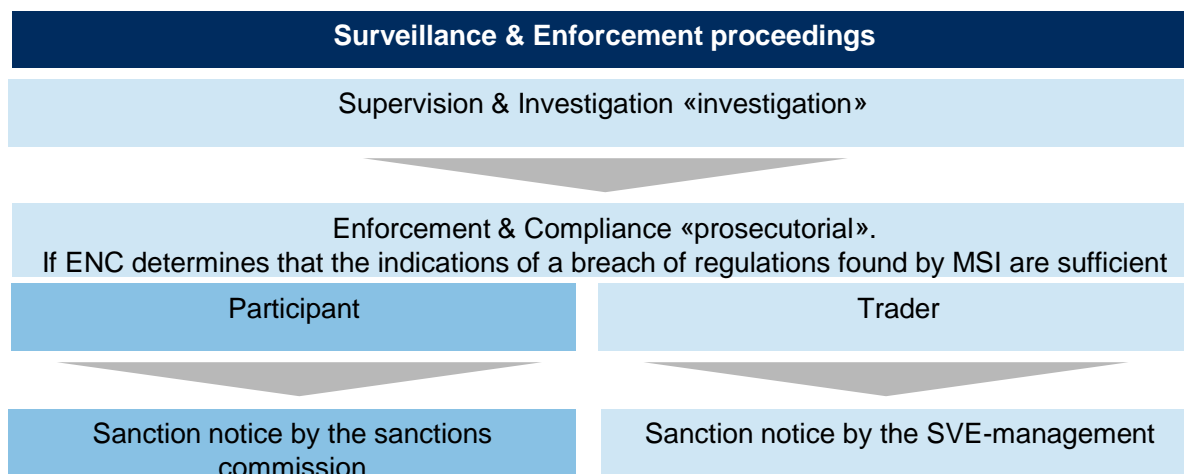
Surveillance & Enforcement proceedings

In the context of a preliminary investigation, Surveillance & Enforcement will examine whether or not sufficient indications exist to conduct a formal investigation.

If ENC determines that the indications of a breach of regulations found by MSI are sufficient, an investigation is initiated. The Parties Concerned (i.e. the participant and in some cases also its traders) will be informed in writing that an investigation has been initiated. No appeal may be lodged against the initiation of an investigation.

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) will have the opportunity during the investigation to state its/their position in writing.

The supervisory authority is informed of the opening and conclusion of investigations.



4.4.4. Conclusion of the investigation

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 a proposal for sanctions with the Sanctions Commission.

4.4.5. Sanction notices by investigative bodies

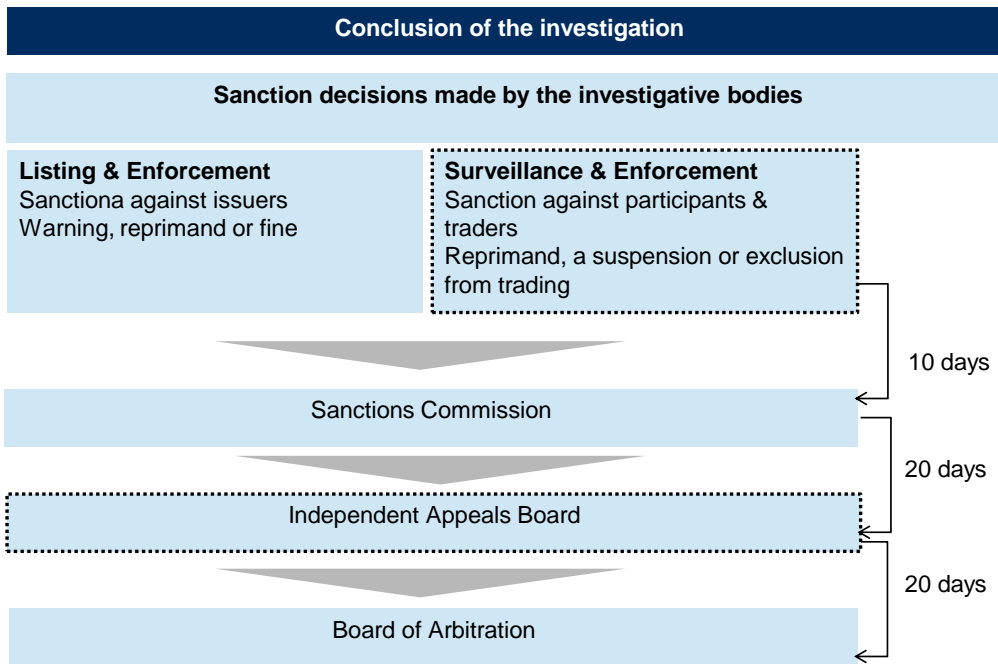
Surveillance & Enforcement may issue a sanction notice against a trader employed by a participant if the sanction takes the form of a reprimand, a suspension or exclusion from trading.

Listing & Enforcement may issue a sanction notice for a violation of the rules if possible sanctions include a warning, reprimand or fine.

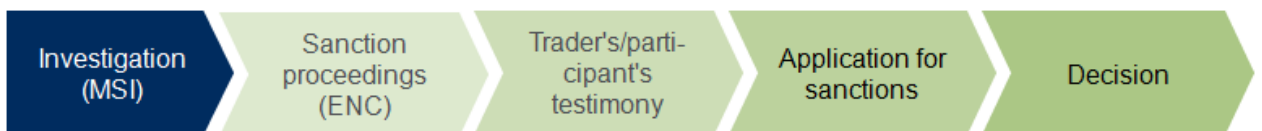
The Party Concerned may lodge an appeal with the Sanctions Commission against investigative body sanction notices within ten trading days. The appeal must be substantiated.

4.4.6. Sanctions Commission decisions

Under Art. 37 FMIA, the Parties Concerned may challenge decisions by the Sanctions Commission regarding the exclusion of participants and traders, 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. Where all other Sanctions Commission decisions are concerned, the Party Concerned may lodge an appeal with the Board of Arbitration within 20 business days of receiving the decision in question.



Enforcement proceedings:



SIX Exchange Regulation institution involved:



4.5. Sanctions

4.5.1. Sanctions against participants and traders

Measures against participants (sanctions imposed by the Sanctions Commission)	Measures against traders (sanctions delegated to SVE)
Reprimand of participant	Reprimand of trader
Suspension of participant	Suspension of admission of a registered trader to trade on SIX Swiss Exchange
Exclusion of participant	Revocation of admission (exclusion) of a registered trader to trade on SIX Swiss Exchange
Imposition of fines (contractual penalties) of up to CHF 10 million	

4.5.1.1. Suspension of participation

The Exchange may, at any time, block a participant's access to the exchange system and/or delete its orders. Participation is suspended in the following situations:

- the participant fails to comply with the rules of the Exchange or those of a central counterparty;
- the participant is unable to conduct its business properly;
- the participant defaults on payments connected to monetary claims by the Exchange or the central counterparty against the participant, or if insolvency is threatened or has already occurred;
- debt restructuring, composition or liquidation proceedings are instigated against the participant, or criminal proceedings commenced against the participant or one of its senior bodies;
- the participant does not use the exchange system for a considerable period of time;
- participants can also be suspended as part of sanction proceedings.

When necessary, the Exchange may publicly announce the suspension of participation and name the participant concerned.

4.5.2. Sanctions against issuers

LR Art. 59 to 61 Sanctions may be imposed against issuers for breaches of the Listing Rules (see Arts. 59–61 LR). Such breaches may include:

- Breach of disclosure obligations
- False or misleading information in the listing prospectus
- Omitting to make prescribed publications or publishing false or misleading information
- Knowingly submitting a false or misleading listing application
- Serious breach of the professional duties of a recognised agent
- Non-payment of legitimately imposed fees

Various sanctions may be imposed, having regard to the seriousness of the breach and the culpability of the issuer, guarantor or recognised agent. These include:

- Reprimand
- Fine of up to CHF 10 million for a deliberate violation
- Fine of up to CHF 1 million in cases of negligence
- Suspension of trading

- Delisting
- Excluding the issuer from further listings
- Publication

All sanction decisions are published on the SIX Exchange Regulation website on an ongoing basis. <https://www.ser-ag.com/en/resources/notifications-market-participants/official-notices.html#/>

4.5.3. Information for the general public

4.5.3.1. Information issued by Surveillance & Enforcement

Surveillance & Enforcement may publish sanction notices that have acquired legal force.

4.5.3.2. Information issued by Listing & Enforcement

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. The sanction notice will generally be made available on the SIX Exchange Regulation website in anonymised form.

4.5.3.3. Information issued by the Sanctions Commission

The Sanctions Commission will publish sanction decisions that have acquired legal force. The sanction notice will generally be made available on the SIX Exchange Regulation website in anonymised form.

4.5.3.4. Termination of participation

The participant or the Exchange may terminate the participation agreement at any time subject to a notice period of four weeks, effective at the end of a month. The right to exclude a participant in connection with sanction proceedings remains reserved. Termination results in the cancellation of the participation agreement. Regardless of such termination, the participant must continue to fulfil all of its obligations to SIX companies. The Exchange will publicly announce the termination of a participant's participation.

5. Liability

5.1. Liability of the Exchange

RB 6.1 Liability of the Exchange

With the exception of intent and gross negligence on the part of its bodies or employees, the Exchange shall not be liable for the loss or damage that a participant, its clients or third parties might sustain from actions or omissions by the Exchange. For example, the Exchange shall not be liable for any loss or damage attributable to:

- the full or partial unavailability of the exchange system, the clearing and settlement infrastructure or other technical problems;
- incorrect or incomplete data processing or distribution;
- the rejection of a trade by a central counterparty.

The Exchange shall accept no liability for claims extending beyond direct losses, for example compensation for indirect losses or consequential losses such as lost profit or additional expenses.

5.2. Liability of participants

Participants are liable for all actions and omissions of their internal bodies, employees and agents and any actions and omissions on the part of their DEA clients.

The participant is required to take the necessary precautions to prevent loss. Specifically, it must have appropriate systems, controls and processes to monitor trades and transaction processing and to reduce potential risks.

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7. Sources

[Financial Market Infrastructure Act, FMIA](#)

[Financial Market Infrastructure Ordinance, FMIO](#)

[FMIO-FINMA](#)

[Federal Act on Financial Institutions \(Financial Institutions Act, FinIA\) Ordinance on Financial Institutions \(Financial Institutions Ordinance, FinIO\) Rule Book](#)

[Listing Rules](#)

[Directive 1: Admission of Participants](#)

[Directive 2: Technical Connectivity](#)

[Directive 3: Trading](#)

[Directive 4: Market Control](#)

[Directive 5: Alternative Trading](#)

[Directive 6: Market Information](#)

[Directive 7: Sponsored Access](#)

[Reporting Rules](#)

[Code of Conduct for Securities Dealers, Swiss Bankers Association](#)

[FINMA Circular 2013/08 Market conduct rules for the securities market](#)

[SIX Exchange Regulation – Sactions](#)

8. Glossary

Term	Explanation
ASP	Application Service Provider
FinIA	Financial Institutions Act
FinIO	Ordinance on Financial Institutions (Financial Institutions Ordinance)
BTR	Bilateral Trading Platform
CO	Swiss Code of Obligations
DP	Delayed Publication
ETFs	Exchange Traded Funds
ETPs	Exchange Traded Products
ETSFs	Exchange Traded Structured Funds
FINMA	Swiss Financial Market Supervisory Authority
FMIA	Financial Market Infrastructure Act
FMIO	Financial Market Infrastructure Ordinance
FIX	Financial Information eXchange Protocol
GUI	Graphical User Interface
IBL	Internet Based Listing
IP	Immediate Publication
LR	Listing Rules
RB	Rule Book
SCAP	SIX Swiss Exchange Common Access Portal
SP	Suppress Publication
SSX	SIX Swiss Exchange
StGB	Swiss Penal Code
SVE	Surveillance & Enforcement
SWXess	SIX Swiss Exchange trading platform
TB	Takeover Board
TOO-TB	Takeovers Ordinance – Takeover Board
TRI	Transaction Report Interface
TRR	Trade Reconciliation Report

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