

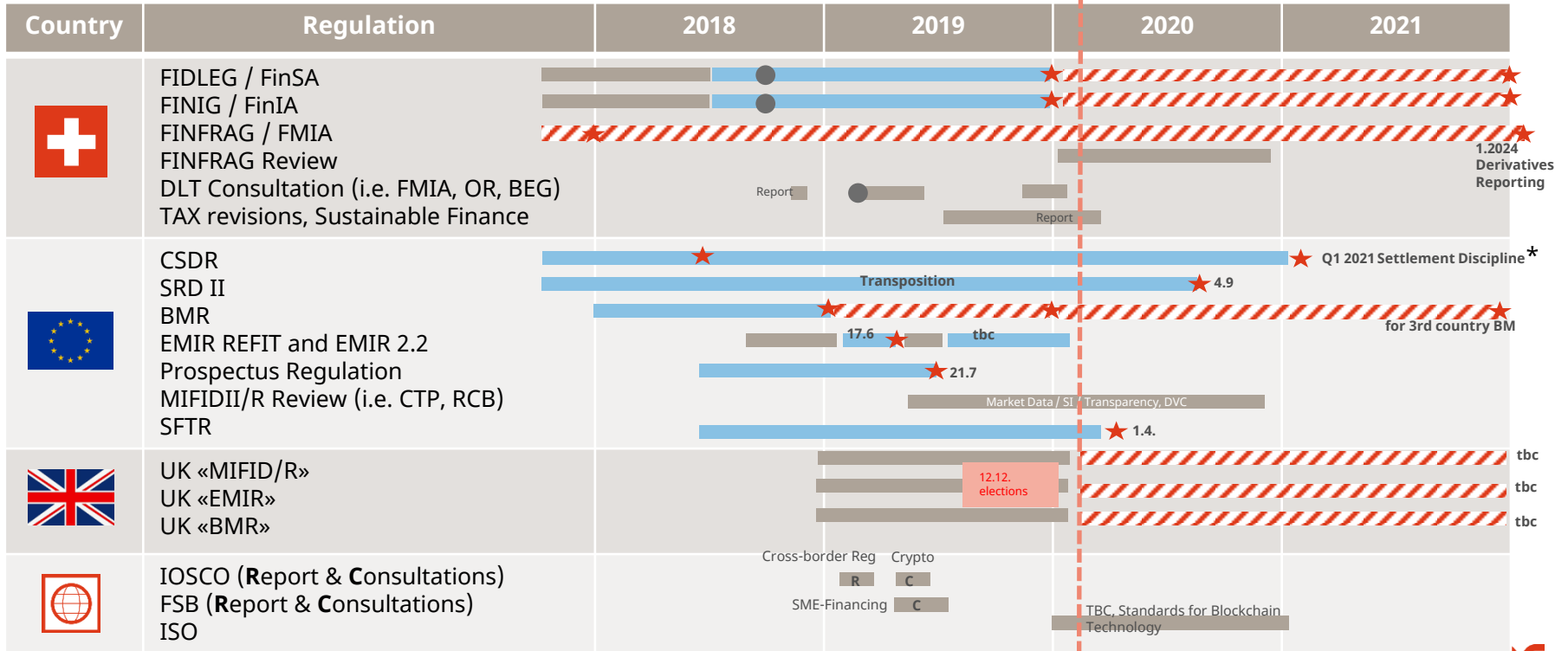
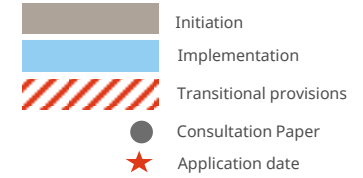


# Swiss SPTC Meeting

## Regulatory Developments

Simon Pabst, 10 December 2019

# Regulatory roadmap Status Dec 2019



\* Delay until beginning 2021 (stated by EU Commission; T2S Nov release dependency)



# Agenda

## CDSR

- Introduction
- Publication Frontline and Q&A's
- Application for 3<sup>rd</sup> Country Recognition for SIX SIS
- Settlement Discipline for SIX SIS
- Settlement Discipline for SIX x-clear

The final provisions of CSDR with regard to Settlement Discipline will become effective on 14 September 2020. This date will most likely be postponed to the beginning of 2021.

## Intro

- One of the aims of CSDR (Central Securities Depositories Regulation) is to harmonise certain aspects of the settlement cycle and settlement discipline and to provide a set of common requirements for CSDs operating securities settlement systems across the EU.
- As a Swiss company, SIX is mostly indirectly impacted by European Union (EU) regulation, as it must adhere to Swiss law.
- Both SIX SIS and SIX x-clear are affected by CSDR, though to varying degrees as CSD's and CCP's in the European Union (EU).
- Although the detailed regulation has been in force for one year, many uncertainties remain and a number of questions which the industry has need for clarity.

## SIX SIS

- SIX SIS, as CSD, will continue to adhere to the current settlement discipline regime for all settlements taking place at SIX SIS (place of settlement), as is required by Swiss law.
- SIX SIS is implementing certain aspects of the CSDR Settlement Discipline Regime for the cross border settlement business where settlement takes place outside of SIX SIS.
- SIX SIS' request for recognition under CSDR is still pending. SIX SIS can continue to offer its services in Liechtenstein and Germany until ESMA makes a final decision.

## Summary

## SIX x-clear

- As a third-country CCP active across the EU, SIX x-clear is legally obligated to comply with the requirements set forth by CSDR (Settlement Discipline) within the EU.
- These requirements can broadly be sorted into:
  - Mandatory settlement matching criteria
  - A comprehensive penalties regime
  - A detailed buy-in process

# CSDR – Publication Frontline and Q&A's

**SIS**

Frontline and Q&A's regrading SIX SIS were published 3 December 2019. Please don't hesitate to reach out to your Relationship Manager should you have any further question not being answered.

**SXC**

Due to a pending ESMA decision which impacts CCP's, the Frontline and Q&A's for SIX x-clear will be published in due course.

# CSDR - Objectives



Regulation (EU) No 909/2014 of 23 July 2014 on improving securities settlement in the EU and on Central Securities Depositories

## Objectives of CSDR

- One of the aims is to harmonise certain aspects of the settlement cycle and settlement discipline and to provide a set of common requirements for CSDs operating securities settlement systems across the EU.

## CSDR at SIX

- Both SIX SIS and SIX x-clear are affected by CSDR, though to varying degrees:
  1. SIX SIS has initiated the process for 3rd country recognition for LI and D;
  2. SIX SIS intends to adopt certain aspects of the settlement discipline regime to guarantee a smooth running of the international asset servicing business;
  3. SIX x-clear as a CCP active within the EU is implementing the required changes mandated by the settlement discipline regime
- SIX is running a project to implement the changes for SIX SIS and SIX x-clear

# CSDR - Regulatory environment



As a Swiss company, SIX is mostly indirectly impacted by European Union (EU) regulation, as it must adhere to Swiss law.

- As the providers of CSD- and clearing-services, SIX SIS Ltd and SIX x-clear Ltd are the two SIX companies most affected by CSDR. However, as Swiss companies, neither SIX SIS nor SIX x-clear are directly subject to CSDR but have to comply with the equivalent Swiss regulation, the Swiss Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (FMIA or FinfraG).
- FMIA has been in effect since 01 January 2016 and therefore any necessary changes were introduced in the course of 2015 and 2016. FINMA, the Swiss regulator, confirmed that SIX SIS and SIX x-clear comply with FMIA when it awarded SIX SIS its CSD license on 26 September 2017 and SIX x-clear its CCP license on 28 March 2018.
- Both SIX SIS and SIX x-clear wish to continue offering their services in the EU and European Economic Area (EEA) and to be recognised by EU authorities in order to do so. SIX SIS and SIX x-clear are therefore affected by the EU regulation and the following changes are being introduced as a result.

# CSDR – Application for 3<sup>rd</sup> Country Recognition for SIX SIS



SIX SIS' request for recognition under CSDR is still pending. SIX SIS can continue to offer its services in Liechtenstein and Germany until ESMA makes a final decision

## Achievements

- Procedure for application for third country recognition under CSDR has been agreed between ESMA and the EU Commission
- SIX SIS has expressed the intention to continue providing CSD services in LI and DE to ESMA in September 2017
- ESMA has informed the EC to start its equivalence procedure
- SIX SIS is in regular contact with ESMA and the LI authorities: As far as they are informed, the process is still pending with the EC
- SIX SIS' service provision into Germany consists solely of offering issuers the possibility to choose to issue securities centrally held at SIX SIS under German law.



# CSDR – Settlement Discipline for SIX SIS (CH and the EU)

**CH**

- SIX SIS, as a CSD, for all settlements taking place at SIX SIS (place of settlement), as is required by Swiss law, i.e. the penalty-regime for the Swiss market on CCP-transactions.
- Buy-in rules to its participants for the Swiss market.

No changes  
required

**EU**

- Implementations of cash penalties for late settlements for cross border custody business.
- In line with its decision to apply the Settlement Discipline Regime only to its cross border business, regarding the buy-in process, SIX SIS will include an obligation for its participants to be subject to the buy-in according to Articles 30 to 31 Settlement Discipline RTS for transactions not cleared by a CCP and not executed on a trading venue and with settlement place outside SIX SIS.

Adaptations  
required

# CSDR – Settlement Discipline for SIX SIS (EU) - Details 1/2

EU

## **Implementations of cash penalties for late settlements for cross border custody business**

- SIX SIS is concentrating its efforts on the implementation of cash penalties for late settlements;
- Debits and credits imposed by EU-market participants will be passed on to participants whenever the cause of the penalty lies with the participant;
- SIX SIS will provide daily reports and execute monthly booking as per market standard;
- This will require changes on Secom and for the Cross-CSD custody business on T2S;
- The detailed process is not fully confirmed by markets and subject to change.
- As per the current available information, SIX SIS plans to introduce the following:
  - Three new penalty statement-reports in MT537 format:
    1. Daily report on new and/or amended penalties (incl. null-report).
    2. Monthly aggregated penalties statement earliest on 14th business day for the previous month.
    3. Monthly cash pre-advice statement earliest on 15th business day for the total amount per currency due for the previous month. The total amounts include all EU-markets.

# CSDR – Settlement Discipline for SIX SIS (EU) - Details 2/2

EU

## **Implementations of cash penalties for late settlements for cross border custody business**

- As an alternative to the MT537 a .csv file with the same details will be available via webbox.
- The total amounts due will be booked on a monthly basis in local currency on dedicated participant cash-accounts at SIX SIS. It will be executed earliest by the 17th business day of the following month after SIX SIS has received the bookings from the markets. The relevant advice MT900/MT910 and statement MT950 will specify the reason for the booking.
- Reporting and booking is executed per (assigned)-business partner-ID ((A)BP-ID).
- The penalties from the Swiss market are not part of the above reporting- and booking process.
- It is expected that settlement instruction formats in EU markets requires additional details such as 'place of clearing' or 'Buy-in indicators'. Details will be communicated at a later stage once final requirements from respective markets are available.

# CSDR – Settlement Discipline for SIX x-clear



## CH/ EU Impact

- Although the primary focus of CSDR is on CSDs, Chapter III (Settlement discipline) impacts all settlement participants, including CCPs
- As a third-country CCP active across the EU, SIX x-clear is legally obligated to comply with the requirements set forth by CSDR within the EU
- These requirements can broadly be sorted into
  - Mandatory settlement matching criteria
  - A comprehensive penalties regime
  - A detailed buy-in process
- Co-CCP interoperability agreements must be amended so all three Co-CCPs are aligned with each other and with CSDR

# CSDR – Settlement Discipline for SIX x-clear (CH)

CH

## Adjustments

- As CSDR's jurisdiction is limited to the EU, Switzerland is not obliged to follow any CSDR related mandates.
- Accordingly, few changes are expected in the Swiss market.
- Market makers will continue to enjoy a longer buy-in extension period. However, this will be reduced from ISD+11 to ISD+7 to be somewhat more aligned with the EU.
- To avoid having two different buy-in processes, existing buy-in procedures will be amended to reflect the new requirements outlined in CSDR settlement discipline.

# CSDR – Settlement Discipline for SIX x-clear (EU)

## EU

### Adaptations

- With regards to settlement instruction matching criteria, SIX x-clear is largely compliant; main changes surround establishing new MIC codes to segregate SME Growth Market trades as well as introducing criteria (liquid/non-liquid securities) to distinguish between different EU buy-in periods.
- A new settlement penalties regime must be implemented. Whether CCPs or CSDs will ultimately be responsible for collecting and distributing penalties and compensations is still being debated between EACH, ECSDA, and ESMA.
- SIX x-clear will have to separate its settlement flows to distinguish between settlements eligible for penalties (treasury investment activities) and settlements not eligible for penalties (cleared transactions and collateral transfers).
- Existing buy-in procedures will be amended to reflect the new requirements and timelines outlined in CSDR settlement discipline.

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