



GOING PUBLIC
on **SIX SWISS EXCHANGE**

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Switzerland and its Financial Market

This publication is somehow emblematic of Switzerland. A number of businesses and organisations, all with different missions and goals, have joined forces to produce an extensive study on the Swiss financial sector, with a special emphasis on Initial Public Offerings (IPOs). Switzerland is a country with four national languages, where diverse cultures coexist. As a result, the Swiss have a long tradition of looking beyond borders, thinking outside the box, and seeking common ground. Unity in diversity – this is what Switzerland is all about.

Given the scarcity of natural resources and arable land, Switzerland has built its own success model. Optimal conditions and innovation in business were identified early on as the key to success. This focus on promoting optimal conditions has shaped Switzerland into a highly competitive economy. In several prominent studies, Switzerland leads the rankings as the most competitive economy in the world. This is a major achievement because this competitive edge permits greater independence and widens the field of operation. Competitive strength also generates prosperity and raises living standards.

Economic prosperity depends on innovative enterprises, which can generate a competitive advantage by successfully marketing new products and developing new processes. Innovation requires capital expenditure, which in turn must be funded. Here the capital market is the hub, making resources available for the best in-

vestment opportunities. In capitalist economies such as Switzerland, capital markets are left to perform this function. However, the global financial crisis has also highlighted the need for regulatory control to ensure optimal market functioning. Switzerland is in the process of optimising its regulatory framework, for example in the areas of tax and capital adequacy requirements for banks. A strong and effective capital market will help Switzerland retain its status as one of Europe's most innovative countries.

In summary, I am pleased to maintain that Switzerland is an attractive place to do business. Switzerland's appeal and strength as a financial location are down to a combination of mutually reinforcing factors. Easy access to authorities and the availability of a highly skilled workforce have a positive impact on the financial marketplace, while the wider commercial environment benefits from its global networks and a well-functioning capital market. Switzerland is now especially attractive to businesses looking to finance their growth and ensure long-term viability. The strengths and innovation of participants in the Swiss financial markets, combined with Switzerland's security and highly developed infrastructure, will help to ensure that Switzerland remains one of the most attractive locations for businesses as well as a leading international financial centre.

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Prospectus Including Offering Restrictions

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An issuer intending to list its shares on SIX Swiss Exchange is required to publish a listing prospectus pursuant to articles 27 et seq. of the Listing Rules. In addition, public offerings of newly issued shares are subject to certain prospectus requirements set out in article 652a of the Swiss Code of Obligations (CO) (issue prospectus). In practice, the information required to be published in the listing prospectus and in the issue prospectus is usually integrated in one single document (a so-called “offering and listing prospectus”).

No Offering Restrictions

Article 652a CO requires an issue prospectus when new shares are offered to the public in Switzerland and also contains certain disclosure items that must be included. The issue prospectus must be made available to investors but is not subject to any registration requirements with any Swiss regulator. Thus, in contrast to many other jurisdictions, the public offering of shares in Switzerland is not subject to offering restrictions in the narrow sense. A breach of the prospectus requirements set out in article 652a CO may, however, result in prospectus liability.

Contents of the Prospectus

Disclosure Requirements Pursuant to the SIX Swiss Exchange Listing Rules

The disclosure requirements under SIX Swiss Exchange Listing Rules are largely modelled on the EU Prospectus Directive, but are less extensive and more flexible. Switzerland is not an EU Prospectus Directive jurisdiction, i.e. the EU Prospectus Directive is not applicable to a public offering of shares in Switzerland and the listing of shares on SIX Swiss Exchange.

The listing prospectus must contain the information necessary for competent investors to make an informed assessment of the assets and liabilities, financial position, profits and losses and prospects of the issuer, as well as of the rights attached to the shares. The information must be presented in such a way that a competent investor is enabled to assess the quality of the issuer and the characteristics of the shares. The prospectus must not contain inflammatory or promissory statements. These are the overreaching requirements of the SIX Swiss Exchange Listing Rules but there are some more detailed content requirements for the listing of shares contained in the prospectus disclosure schemes A (relating to equity securities), B (relating to investment companies) and C (relating to real estate companies), in the Directive on Financial Reporting and in the

Directive on the Presentation of a Complex Financial History. The principal disclosure items are:

- Risk factors
Under a specific heading “Risk Factors” of the listing prospectus, the issuer must describe the principal risks of relevance for the issuer and the shares. The former should be specific to the issuer and its industry – often a prospectus will divide the risk factors so as to address these separately.
- Business description
This section must describe the issuer’s business and operations. It usually starts with an overview section, followed by a summary of the issuer’s strengths and strategies and a description of the principal products or services sold by the issuer, together with a description of where and how these are produced and sold, including information on the issuer’s customers and suppliers. The business description section must also include information on the number of employees, location and real estate ownership, patents and licences, research and development and pending or threatened material court, arbitral and administrative proceedings.



- Information on the supervisory body, the executive management and the auditors
The listing prospectus must provide information on the members of the supervisory body and the executive body including their ownership of shares and option rights of the issuer and potential legal proceedings and convictions against them, describe employee participation schemes and state the auditors for the last three years.

- Financial information
The listing prospectus must include the audited consolidated annual financial statements for the last three full financial years (exemptions specifically applying to young companies are laid down in a directive), drawn up in accordance with (i) IFRS, US GAAP or other internationally accepted accounting standards for companies not incorporated in Switzerland for listings according to the International Reporting Standard or (ii) Swiss GAAP FER or the standard according to the Swiss Banking Act for listings according to the Swiss Reporting Standard, and interim consolidated financial statements if the balance sheet date of the last audited consolidated financial statements is more than nine months in the past on the date the listing prospectus is published. The listing prospectus must also disclose material changes in the issuer's assets and liabilities, financial position and profits and losses that have occurred since the most recent annual or interim financial statements. If the corporate structure of an issuer has undergone significant changes that has not been presented in the most recent audited financial statements, additional pro-forma financial information for the last financial year and /or audited combined financial statements for the last two (possibly three) financial years must be presented in the listing prospectus.

- Other information about the issuer:
 - Capital structure, shares, voting and other shareholder rights
 - Overview of capitalisation and indebtedness
 - Dividend policy
 - Principal past, current and future investments
 - Principal shareholders

Disclosure Requirements Pursuant to Article 652a CO

With the exception of the requirement to include the most recent unconsolidated statutory financial statements of the issuer and to provide information on the dividends distributed within the last five years, the disclosure requirements pursuant to article 652a CO are not particularly demanding and a prospectus compliant with the SIX Swiss Exchange Listing Rules generally contains the minimum disclosure requirements of the CO.

Form of the Prospectus

As a general rule, the prospectus must be a single document. There are two exceptions to this rule:

- Offer price and /or offer size supplement:
Information on offer price and /or offer size can subsequently be published in a supplement to the first part of the prospectus once the offer price and /or the offer size is /are fixed at the end of the bookbuilding period. The first part of the prospectus together with the supplement forms the final prospectus.
- Incorporation by reference:
Information may be included in the prospectus in the form of a reference to specific previously or simultaneously published documents including annual financial statements and auditor's reports as well as interim financial statements and documents that have been produced in connection with a specific transaction, such as a merger or spin-off.

Language

Generally, all documents that must be submitted to the Regulatory

Board may be produced and published in German, French, Italian or English. This rule also applies to the prospectus meaning that the prospectus may for instance, be produced and published in English only, without the need to prepare a summary in German, French or Italian.

Responsibility for the Prospectus

The prospectus must include a statement of the issuer that it assumes responsibility for the information in the prospectus. Responsibility for the prospectus carries with it the possibility of liability for the issuer as well as its directors, officers, employees or advisors involved in the preparation or dissemination of the prospectus.

Listing Procedure

The listing of shares on SIX Swiss Exchange requires a listing application that needs to be submitted together with, among other documents, the prospectus to the Regulatory Board for review and approval no later than 20 trading days prior to the intended listing date or, if the offering and listing of the shares involves a bookbuilding procedure, no later than 20 trading days prior to the start of the bookbuilding period. Generally, the prospectus approval process is less onerous than in most EU jurisdictions and the US. For example, the prospectus may be submitted to the Regulatory Board in draft form and amended drafts may be filed within the 20-trading day review period without starting the review period all over again.