Circular No. 4 - Practice for the Listing of Bonds (CIR4)

Status on 1 September 2024
Basis Listing Rules (LR), Additional Bonds (ARB) and implementing decrees

1 This Circular clarifies practice of the Regulatory Board of SIX Group AG for the listing of bonds, and provides additional detail. The Circular is amended and updated continually.

1 Cross and upstream guarantees in connection with requirements for capital resources and the duration of existence of an issuer

a) Principle

2 The requirements imposed on issuers under Art. 11 Listing Rules (LR) and Art. 5 Additional Rules Bonds (ARB) (duration and capital resources) may be waived if, instead of the issuer, a third party that fulfils those requirements (guarantor) provides a guarantee commitment in respect of the obligations associated with the securities. In most cases, the parent company of the issuer will act as guarantor within the meaning of Art. 9 Additional Rules Bonds (downstream guarantee).

3 Further to a decision made by the Issuers Committee of the Regulatory Board, as a general rule cross and upstream guarantees from the issuer's subsidiaries or affiliated companies are not eligible as alternative fulfilment by a guarantor in accordance with Art. 8 ARB. Given the relationship between the issuer and guarantor, in such cases it is not possible to ensure the value of the guarantee commitment at all times, and any alternative fulfilment by a subsidiary or affiliated company would not be in accordance with Art. 9 ARB.

b) Exception

4 Under certain circumstances, alternative fulfilment by a substitute guarantor which is a direct or indirect subsidiary or affiliate of the issuer may still be possible. Such circumstances exist where the issuer is a special purpose vehicle (SPV) which is at the same or higher level as the substitute guarantor within the same group of companies, or is not included in that group's scope of consolidation. Typically in such cases, a number of direct or indirect subsidiaries and affiliates will provide cross and upstream guarantees.

5 Upon application, alternative fulfilment by such a subsidiary or affiliate company is permitted on condition that the guarantor subsidiaries or affiliates account for a significant share of group EBIT, or another key financial indicator, thus ensuring that the guarantee commitment has a certain value. Approval for substitute fulfilment by subsidiaries and affiliated companies must be requested as part of the pre-verification application in accordance with Art. 23 Directive Procedures Debt Securities. Evidence must also be supplied that the guarantor subsidiaries and affiliated companies account for a significant share of the group's EBIT. If the application states that the subsidiaries and affiliated companies account for a significant share of a key financial indicator other than EBIT, the reasons for the relevance of this indicator must be given.

6 Furthermore, the prospectus, in accordance with the Federal Financial Services Act dated 15 June 2018 ("FinSA"), or another information document must include the following points:

Transaction structure and risks:

The following information must be included prominently in a clear and comprehensible form:
- graphical presentation of how the transaction is structured;
- brief description of the transaction structure;
- brief description of the guarantee commitment, as well as any other collateral and the relationship between them;
- list of the specific risks attached to the transaction (e.g. structural subordination, limits on cross and upstream guarantees and further collateral), as well as information on where descriptions of such risks are to be found;
- statement that only the substitute guarantor, as guarantor within the meaning of the LR and their implementing decrees, is subject to the SIX Swiss Exchange rules and regulations.

In addition, the following points must be included:
- description of the transaction structure;
- description of the guarantee commitment, as well as any other collateral and the relationship between them;
- the wording of the guarantee commitment or guarantees from the guarantors must be reproduced in full, or incorporated by reference;
- description of the risks.

7 Transaction documents and the relationships between them:

Description of the key transaction documents and the relationship between them. The key transaction documents include, amongst others:
- structurally superior credit agreements;
- agreements between creditors and bondholders (intercreditor agreements).

Information on guarantors:
- Full information on the substitute guarantor, in accordance with Scheme E;
- Names of the other guarantors and a summary description, included in the presentation of the guarantee commitment;
- Information on the aggregate percentage of group EBIT or an alternative key financial indicator accounted for by all guarantors together.

Annual financial statements:
- Financial statements for the past two financial years for the group to which the issuer belongs.

Management discussion & analysis (MD&A):
- Explanation of significant changes to the figures from the group management's perspective.

8 Provided the above transparency requirements are fulfilled, the following relaxations of the procedural and listing maintenance obligations may be granted:

- Procedural obligations

The obligations marked with an "x" in the following table must be fulfilled. Those marked "-" are not applicable.

Article	Description	Issuer	Substitute
Art. 12 LR	Annual financial statements	-	X
Art. 45 LR	Issuer declaration/ declaration of consent	X	X
Art. 4 Directive Procedures Debt Securities	Where applicable, evidence from the issuer that their prospectus has been approved by a Prospectus Office in accordance with the FinSA.	X	X
Art. 5 Directive Procedures Debt Securities	Extract from the Commercial Register, applicable articles of association	X	X

9 The obligations marked with an "x" in the following table must be fulfilled. Those marked "-" are not applicable.

- Obligations concerning the maintenance of listing

Obligation	Description	Issuer	Substitute
Regular reporting obligations	Reports in accordance with the Directive on Regular Reporting Obligations	X	X
Ad hoc Publicity	Directive on Ad hoc Publicity	-	X

10 The Regulatory Board reserves the right to define conditions which extend beyond the aforementioned requirements, should a specific transaction structure so require.

2 Treatment of guarantors irrelevant under listing regulations

11 If an issuer fulfils all of the requirements set out in the LR, but also holds one or more guarantees from guarantors, the listing requirements are not deemed to have been fulfilled by a substitute within the meaning of Art. 9 ARB. Rather, these guarantors often do not fulfil the requirements concerning the duration of existence (Art. 11 LR), capital resources (Art. 5 ARB), the applicable financial reporting standard (Art. 12 LR), or those relating to the maintenance of listing (Art. 49 seqq. LR).

12 Further to a decision made by the Regulatory Board's Issuers Committee, no application for an exemption needs to be made for guarantors which are irrelevant under SIX Swiss Exchange rules and regulations, providing it is established transparently that these guarantors are not subject to the listing rules and regulations and their implementing decrees.

13 The prospectus, in accordance with the FinSA, or another information document must state prominently which guarantors do not fulfil the obligations in respect of listing and the maintenance of listing, or that the provisions of the LR and its implementing provisions do not apply to these guarantors.

3 Trading in defaulted bonds following the expiry of arrangements for admission to trading

14 Under the Rules for Trading in Delisted Bonds on SIX Swiss Exchange (RTDB), bonds from issuers which are undergoing liquidation proceedings or similar procedures may continue to be traded on SIX Swiss Exchange

after they have been delisted. According to the wording of Art. 3 RTDB, their scope of application is nonetheless limited to those bonds which have been delisted upon request.

15 The Regulatory Board has decided that defaulted bonds can continue to be traded on SIX Swiss Exchange after their term has expired and although they are no longer listed within the meaning of the LR.

16 Trading in defaulted bonds post-maturity is subject by analogy to the RTDB.

17 Any SIX Swiss Exchange participant may apply for continued trading in defaulted bonds after they have reached maturity. The participant must submit an application to this effect to SIX Exchange Regulation AG ("SIX Exchange Regulation") no later than three exchange days prior to the last day of trading.

18 SIX Exchange Regulation may also decide on its own initiative that trading in a defaulted bond will be continued after it has reached maturity. Continued trading is not a right, however.

19 In contrast to delisted bonds, defaulted bonds are admitted to trading for a limited twelve-month period after their term has expired. SIX Swiss Exchange may extend the duration of trading by a further twelve months in each case upon application by a participant. The participant must submit an application to this effect to SIX Exchange Regulation no later than three exchange days prior to the last day of trading. The extension of trading is not a right.

20 The admission to trading of defaulted bonds after they have reached maturity will be published by means of an Official Notice.

21 The admission to trading does not give rise to any obligations on the part of the issuer.

22 Defaulted bonds are traded "flat" on SIX Swiss Exchange (Regulatory Board Communiqué No. 4/2009 (ser-ag.com)).

4 Asset-backed securities

23 Asset-backed securities (ABS) may be listed on SIX Swiss Exchange subject to the conditions which are described below. The requirements that the issuers and the securities must fulfil are determined primarily by the provisions of the LR and the ARB. In derogation of the rules which apply to bond issuers, and pursuant to Art. 16 para. 1 LR in accordance with Art. 5 para. 3 ARB, issuers of ABS do not need to fulfil the requirements with regard to the duration of existence (Art. 11 LR) or capital resources.

24 As a general rule, ABS are subject to the same disclosure obligations with regard to listing as apply to bond issues.

5 Public-sector issuers and guarantors

25 The ARB contain special requirements for public-sector issuers.

26 Where they fulfil the role of guarantor, public-sector regional authorities may decide not to submit an issuer declaration in accordance with Art. 45 LR or Art. 17 ARB.