



# Rules for the Appeals Board of the SIX trading venues

Appeals Board Rules, ABR  
dated 9 December 2020  
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## 1 Responsibilities

<sup>1</sup> The Appeals Board, within the meaning of the Financial Market Infrastructure Act, rules on:

- a) Appeals against decisions on the admission and exclusion of participants as defined in the Trading Rules applicable to the respective trading venue or the Rules of Procedure;
- b) Appeals against Sanctions Commission decisions on the suspension of traders as defined in the Rules of Procedure;
- c) Appeals against Sanctions Commission decisions on the suspension of trading and cancellation of listing (delisting);
- d) Issuer, guarantor, sponsoring securities firms and SIX Exchange Regulation AG ("SIX Exchange Regulation") appeals against decisions or preliminary decisions of the Regulatory Board;
- e) Complaints from shareholders regarding the period between the delisting announcement and the last day of trading in the case of delistings requested by an issuer.

<sup>2</sup> The Appeals Board is not bound by instructions from SIX Group Ltd or any of its subsidiary companies.

## 2 Composition

<sup>1</sup> The Appeals Board is composed of three regular and three alternate members who are experienced in the administration of justice, securities trading or capital market legislation. They take their decisions in a committee of three.

<sup>2</sup> The members of the Appeals Board may not belong to any other SIX regulatory body, neither may they have an employment relationship, or any other contractual relationship, with the regulated trading venues which might result in a conflict of interest.

## 3 Election

<sup>1</sup> The regular and alternate members are elected by the Board of Directors from SIX Group Ltd for a term of office of six years.

<sup>2</sup> The election of members of the Appeals Board requires the prior approval of the Swiss Financial Market Supervisory Authority FINMA (FINMA).

<sup>3</sup> The Appeals Board designates its Chairman and Deputy Chairman from among its own ranks.

## 4 Recusal

The recusal provisions of the Swiss Supreme Court Act of 17 June 2005 in their current valid version are applicable mutatis mutandis to members of the Appeals Board.

## 5 Organisation

<sup>1</sup> The Chairman heads the Appeals Board and determines the course of individual appeal procedures. The Chairman may appoint a secretary.

<sup>2</sup> The procedural provisions contained in the Federal Act on Administrative Procedure of 20 December 1968 on Administrative Procedure apply mutatis mutandis to the extent that they are not in conflict with the provisions of these regulations.

## **6 Procedures**

### **6.1 Appeal**

<sup>1</sup> Appeals against decisions must be filed with the Appeals Board in writing within 20 trading days of the notification or publication of any such decision.

<sup>2</sup> The appeal procedure may be conducted in German, French or English at the choice of the appellant. If no such choice is made, or if the affected parties cannot agree in this regard, the Appeals Board decides on the language.

<sup>3</sup> Submissions may be made – and documents submitted – in German, French, Italian or English. Any relevant documents drawn up in another language must be translated into a permissible language.

<sup>4</sup> An appeal may seek redress for a violation of the Listing Rules applicable to the respective trading venue, the Trading Rules, the Directives, the Rules of Procedure and the relevant implementing provisions, as well as for incorrect or incomplete findings of fact.

<sup>5</sup> The Appeals Board may grant suspensive effect to the appeal. This may be made conditional on the provision of a guarantee deposit.

### **6.2 Legitimation**

<sup>1</sup> Participants and traders as defined in the Trading Rules applicable to the respective trading venue, issuers, guarantors, sponsoring securities firms as defined in the Listing Rules, and SIX Exchange Regulation are entitled to lodge an appeal with the Appeals Board, if they have an interest worthy of protection in having the decision repealed or amended (right to sue).

<sup>2</sup> The trading venue that has handed down the decision for the admission or the exclusion of the participant as defined in the Trading Rules applicable to the respective trading venue, is the respondent in the proceedings before the Appeals Board (liability to be sued).

<sup>3</sup> Shareholders may appeal to the Appeals Board against decisions on applications for delisting within 20 trading days of the publication of that decision on the SIX Exchange Regulation website, if they have an interest worthy of protection in having the decision amended. Only the delisting decision at the request of an issuer is contestable, and only with regard to the period between the delisting announcement and the last day of trading. In all other cases appeals by shareholders against delisting are inadmissible.

### **6.3 Notice of appeal**

<sup>1</sup> Appeal proceedings will be instituted upon delivering of a written notice of appeal to the Appeals Board.

<sup>2</sup> The notice of appeal must contain the following information in particular:

- a) name, address, telephone and e-mail address of the appellant and, where applicable, of the representatives of the appellant;
- b) a copy of the decision under appeal;
- c) requests;
- d) a brief justification of the requests.

#### **6.4 Statement of appeal**

<sup>1</sup> The appellant must, within the deadline set by the Appeals Board, submit a statement of appeal.

<sup>2</sup> Five copies of the statement of appeal must be filed with the Appeals Board. The statement of appeal must contain the appellant's claims, provide reasons for them with reference to the evidence and bear the signature of the appellant or its legal representative.

#### **6.5 Response to statement of appeal**

With regard to the response to statement of appeal, clause 6.4 applies mutatis mutandis.

#### **6.6 Exchange of written submissions**

By way of exception, the Chairman may order a second exchange of written submissions.

#### **6.7 Advance payment of costs**

<sup>1</sup> The Appeals Board decides whether the appellant is to make an advance towards the amount of the estimated costs of the proceedings. If such an advance is not made within the specified time limit, the appeal will not be heard.

<sup>2</sup> In appeal proceedings according to clause 6.2 para. 3, the appellant shareholder is always required to make an advance payment of the amount of the estimated costs of the proceedings.

#### **6.8 Consultation**

If the appeal does not prove manifestly inadmissible or unfounded, the Chairman of the Appeals Board gives the preceding instance the opportunity to submit a written statement. The preceding instance must provide the Appeals Board with the documents necessary for an assessment of the case.

#### **6.9 New facts**

The parties may present new factual allegations and evidence. However, in the case that they were able to submit these facts and evidence in the preceding instance with reasonable effort, the Appeals Board may take this into account with regard to the cost ruling.

#### **6.10 Procedures**

<sup>1</sup> The parties may file a complaint against any deficiencies in both the procedures and the decision.

<sup>2</sup> The parties are not restricted to apply for the annulment or confirmation of a decision. Specifically, both the plaintiff and the defendant may request modification of the decision, provided their requests do not go beyond the original requests made to the first instance. The Appeals Board is bound by the requests of the parties.

<sup>3</sup> The Chairman may summon the parties to a verbal hearing.

<sup>4</sup> The Appeals Board renders judgement on the merits of the case and with full cognition in regard to all requests from the parties.

#### **6.11 Decision-making**

The deliberations of the Appeals Board are not public. The Appeals Board arrives at its decisions by majority vote. It may make its decision in writing if no member of the Appeal requests verbal consultation and the decision is unanimous.

## 6.12 Publications

<sup>1</sup> If the Listing & Enforcement Division of SIX Exchange Regulation is a party to the appeal proceedings and the appeal was filed against a decision of the Sanctions Commission, the outcome of the appeal proceedings will be made public once the decision of the appeal is legally binding, provided that the commencement of the investigation was previously made public. In other cases, the Listing & Enforcement Division will usually inform the public of the conclusion of the investigation.

<sup>2</sup> SIX Exchange Regulation usually publishes legally binding decisions on its website. Publications are made in anonymous form.

## 6.13 Costs

If the appeal is approved, the preceding instance will pay the costs of the appeal proceedings. If the appeal is dismissed, it will be imposed on the appellant. If the appeal is partially accepted, the costs are borne proportionately. The Appeals Board may award compensation to the prevailing party.

## 6.14 Appeal

<sup>1</sup> In accordance with the Rules of Arbitration, a complaint against the decision may be filed with the Court of Arbitration within 20 trading days of receiving notification.

<sup>2</sup> There is no recourse to the Court of Arbitration in the case of decisions in appeal proceedings concerning the admission or exclusion of a participant as defined in the Trading Rules applicable to the respective trading venue, if the trading venue was the respondent in appeal proceedings as defined in clause 6.2 para. 2. Likewise, there is no recourse to the Court of Arbitration in the case of decisions in appeal proceedings pursuant to clause 6.2 para. 3.

# 7 Final provision

<sup>1</sup> These regulations were amended by resolution of the Board of Directors of SIX Swiss Exchange Ltd on 17 October 2008, at the request of the independent Appeals Board of SIX Swiss Exchange Ltd, and approved by the Swiss Federal Banking Commission on 27 November 2008.

<sup>2</sup> They enter into force on 1 July 2009 and replace the present Rules for the Appeals Board dated 19 November 1999.

<sup>3</sup> The revision of clauses 1, 6.1, 6.2, 6.4 and 6.9 that, at the request of the independent Appeals Board of SIX Swiss Exchange Ltd, was decreed by the Board of Directors of SIX Group Ltd in its resolution of 28 May 2013 and approved by the Swiss Financial Market Supervisory Authority FINMA on 23 December 2013 enters into force on 1 March 2014.

<sup>4</sup> Amendment owing to the entry into force of the Financial Market Infrastructure Act and related ordinances in clause 1 as of 1 April 2016.

<sup>5</sup> The revision of clauses 1, 2, 3 and 6.2 that was decreed by the Board of Directors of SIX Group Ltd on 8 November 2016 and approved by the Swiss Financial Market Supervisory Authority FINMA on 14 November 2017 enters into force on 15 February 2018.

<sup>6</sup> The revision of clauses 1, 6.2 and 6.9 that was decreed by the Board of Directors of SIX Group Ltd on 25 April 2018 and approved by the Swiss Financial Market Supervisory Authority FINMA on 30 April 2018 enters into force on 1 May 2018.

<sup>7</sup> In its resolution of 12 December 2018, the Board of Directors of SIX Group Ltd decreed the revision of clauses 1 and 3–6.9 and authorised the introduction of clauses 6.10–6.14. This resolution was approved by the Swiss Financial Market Supervisory Authority FINMA on 25 February 2019 and enters into force on 1 July 2019.

<sup>8</sup> The revision of clauses 1 and 6.2 that was decreed by the Board of Directors of SIX Group Ltd on 9 April 2020 and approved by the Swiss Financial Market Supervisory Authority FINMA on 14 May 2020 enters into force on 22 June 2020.

<sup>9</sup> The revision of clauses 1, 6.1, 6.2 and 6.14 that was decreed by the Board of Directors of SIX Group Ltd on 9 December 2020 and approved by the Swiss Financial Market Supervisory Authority FINMA on 9 September 2021 enters into force on 15 October 2021.