

**Policy issues relating to suspension of trading and subsequent buyback of four derivative warrants linked to the Nikkei 225 Index issued by Goldman Sachs Structured Products (Asia) Limited**

**Purpose**

1. This note provides information on:
  - the practices of overseas jurisdictions on the regulation of listed structured products (e.g. whether the same body is responsible for approving the listing and regulating the trading of listed structured products); and
  - whether the present arrangement that Stock Exchange of Hong Kong Limited (SEHK) is responsible for approving the listing and regulating the trading of listed structured products would give rise to conflict of interest.

**Structured products**

2. Structured Products are synthetic products whose investment returns are linked to the performance of the underlying assets. The underlying asset may be a security, index, currency, commodity or other assets or combination of such assets. They are generally issued by intermediaries different from the issuer of the underlying assets. Examples of structured products that may be listed on the Exchange include different types of instruments, but not limited to, derivative warrants, callable bull/bear contracts and equity linked instruments. Structured Products traded in different markets may have different features and are called by different names.

**Regulatory framework in Hong Kong**

3. The existing regulatory framework for the securities and futures industry is a three-tier regulatory structure that includes the Government, the Securities and Futures Commission (SFC) and SEHK. This framework applies equally to equity and derivative issues.

*Role of SEHK*

4. SEHK is the frontline regulator responsible for reviewing and approving listing documents for listed structured products and their on-going regulation. The requirements for listing structured products and the approval of issuers are set out in Chapter 15A of the Exchange Listing Rules. The Rules are approved by the SFC pursuant to section 24 of the Securities and Futures Ordinance.

5. The Listing Committee, an independent committee comprising representatives of investors, listed issuers and market practitioners nominated by members of the boards of HKEx and of the SFC, has sole power and authority in relation to all listing matters. In relation to structured products, the Listing Committee has arranged for most of these powers and functions to be discharged by the Listing Division. However,, the Listing Committee has retained the power to approve the issuer. Where the issuer is approved to issue structured products, the Listing Division has the power to approve the listing of these structured products.

*Role of SFC*

6. The SFC administers the laws governing the securities and futures markets in Hong Kong. It is also responsible for the licensing of financial intermediaries and supervising the licensed intermediaries.
7. As the statutory regulator, the SFC supervises and monitors the operations of the Hong Kong Exchanges and Clearing Limited (HKEx) and its subsidiaries. The SFC regulates HKEx to avoid any conflict or potential conflict of interest and ensures that HKEx properly discharges its regulatory role, given HKEx's status as the operator of Hong Kong stock and future markets and a listed company, and as the frontline regulator responsible for the integrity of these markets. This includes:
  - overseeing the performance of its role as the frontline regulator of listing-related matters and dealing with novel and controversial issues,
  - approving the creation of new markets, new products and changes to its rules and regulations, and
  - monitoring the trading of shares, options and futures on its markets, investigate and take action against market misconduct.
8. Unlike equity securities, the public offering of structured products in Hong Kong does not require a prospectus. The listing documents are approved by SEHK. Although listing documents of structured products fall under the dual filing regime<sup>a</sup>. in accordance with the January 2003 MOU between the SFC and the Exchange and in order not to duplicate regulatory effort the SFC will only review draft listing documents of warrants upon request from the Exchange. Generally the Exchange will refer warrant listing documents to the SFC in respect of any new or novel types of warrants or where there are any new or novel issues in the structure of a previously approved listed warrant.

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<sup>a</sup> Under the dual filing regime, SEHK passes copies of materials submitted by listing applicants to the SFC. The SFC may object to a listing if the disclosure in the listing materials appears to the SFC to contain false or misleading information.

### Comparison with other major overseas exchanges

9. The following table shows the ranking of the exchanges engaged in trading of securitized derivatives (ranked by turnover generated from such products in 2010):

Exchange	Year-to-date Turnover (USD millions)	No. of securitized derivatives
1. HKEx (Note 1)	533,930 (47.3%)	6,212
2. Korea Exchange (Note 1)	354,347 (31.4%)	9,063
3. Deutsche Börse	79,651 (7.1%)	618,362
4. SIX Swiss Exchange	38,066 (3.4%)	30,604
5. NYSE Euronext (Europe)	34,773 (3.1%)	18,661
6. Tel Aviv SE	32,464 (2.9%)	416
7. London SE	20,967 (1.9%)	5,144
8. Taiwan SE	6,607 (0.6%)	5,695
9. Singapore Exchange	4,483 (0.4%)	312
10. Australian SE	3,906 (0.3%)	2,241

*Note:*

1. *The figures for HKEx represents the derivative warrants and callable bull/bear contracts listed under Chapter 15A of the Listing Rules. The figures for Korea represent derivative instruments traded on the KOSPI Market.*

*(Source: World Federation of Exchanges website)*

10. The turnover of the top three and top five exchanges collectively represented 86% and 92% of the total securitized derivatives turnover of WFE members. The top three Asian exchanges were Hong Kong (1<sup>st</sup>), Korea (2<sup>nd</sup>) and Taiwan (8<sup>th</sup>).
11. We have reviewed the market practices in eight jurisdictions, including the top five exchanges (including Hong Kong), the top three Asian exchanges (including Hong Kong), and the UK, Australia and Singapore. While UK and Australia have small structured product markets, these jurisdictions are generally used as benchmarks in our regular review of market practices. We have also reviewed Singapore as it shares some similar market characteristics with Hong Kong. Detailed findings are set out in the Appendix.

*Approval for listing and ongoing regulation*

12. Similar to Hong Kong, overseas regulatory frameworks governing the securities markets generally are equally applicable to structured products. A majority of exchanges adopt similar regulatory frameworks as Hong Kong for the approval (5 out of 8 markets) and ongoing regulation (7 out of 8 markets) of structured products.
13. Except for Euronext (Europe), London and Taiwan, the approval for listings of structured products and the ongoing regulations are performed by the exchanges. Like Hong Kong, most exchanges generally i) operate with internal independent bodies which oversee and administer the regulatory functions, and ii) are under the overall supervision of government supervisory authorities or independent securities regulators.
14. The UK adopts a single regulator model and the FSA oversees all regulatory functions (including the approval for listing and ongoing regulation) while the exchange operates a trading platform in compliance with FSA rules. In France and Taiwan, listings are approved by the government regulators while ongoing regulation is conducted by the exchanges.
15. The following table summarizes the exchange's authorities for listing and ongoing regulation in different jurisdictions:

<b>Exchange</b>	<b>Approval for listing</b>	<b>Ongoing Regulation</b>
HKEx	Yes	Yes
Korea Exchange	Yes	Yes
Deutsche Börse	Yes	Yes
SIX Swiss Exchange	Yes	Yes
Euronext Paris	No	Yes
London SE	No	No
Taiwan SE	No	Yes
Singapore Exchange	Yes	Yes
Australia SE	Yes	Yes

### *Review of documents*

16. In Hong Kong, a listing document must be issued for each structured product, and the document is approved by SEHK. Generally, issuers file a base listing document which describes the issuer and the general characteristics of the categories of products to be issued, and file supplemental listing documents for each structured product.
17. Other than the Asian exchanges, most jurisdictions do not review documentation of every structured product. Singapore and Taiwan adopt similar models as Hong Kong in that listing documents are issued for each structured product and are approved by the exchanges.
18. In Korea, the government regulator is responsible for the supervision of the registration statements and the prospectuses issued by issuers. Registration statements are filed electronically with the government regulator and become effective upon expiry of the minimum waiting period. Korea also accepts shelf-registrations for selected issuers which allow public offers of multiple and similar kinds of securities within a one year period. No explicit clearance of the documents is given to the issuers.
19. In jurisdictions outside Asia, the government regulators or the exchanges responsible for the lodging of prospectuses do not review (or require the filing of) prospectuses for each single structured product. They generally allow issuance programs where a category of structured products are issued under a base prospectus, or they selectively review documents after lodgment. In these jurisdictions, the filing of prospectuses is usually with the government regulators:
  - (i) The document disclosure regime and the requirement for a prospectus is the same across all EU member states (includes Germany, Switzerland, Paris and UK). Structured products are usually offered by issuing a base prospectus under an issuance program, which permits the issuance of non-equity securities of a similar category in a repeated manner during a specified issuing period. In Germany, France and the UK, the base prospectuses are lodged with the government regulators which generally review and approve the prospectus disclosure. The term sheets for individual products issued under the program are also filed with the government regulators. Switzerland adopts the same process but this function is performed by the exchange; and
  - (ii) In Australia, disclosure documents are lodged with the government regulator which selectively reviews documents after lodgment.
20. In all jurisdictions under review, the approval of listing documents is the responsibility of a single regulator, either the government regulator or the exchange.

21. The following table summarizes the exchange's authorities for review of listing documents in different jurisdictions:

<b>Exchange</b>	<b>Approval of listing documents by the exchange</b>	<b>Allow the use of issuance program / Shelf-registration</b>	<b>Approval of supplemental listing documents / term sheets for each issue</b>
HKEx (Note 1)	Yes	Yes	Yes
Korea Exchange	No	Yes	Note 2
Deutsche Börse	No	Yes	No
SIX Swiss Exchange	Yes	Yes	No
Euronext Paris	No	Yes	No
London SE	No	Yes	No
Taiwan SE	Yes	No	Yes
Singapore Exchange	Yes	Yes	Yes
Australia SE	No	No	No

*Notes:*

1. *In Hong Kong, qualified issuers approved by the exchange can adopt issuance program and use a base prospectus. However, unlike other jurisdictions, each structured product is still subject to review and approval by SEHK.*
2. *In Korea, issuers submit supplemental documents to the government regulator for review. However, no explicit clearance of the documents is given to the issuers (see paragraph 18).*

### **Concern on conflict of interest**

22. The theoretical conflict of interest that arises from HKEx receiving listing fees from companies or structured products listed on the Exchange are addressed by the elements in the three-tier regulatory structure.
- (i) The three-tier regulatory structure for the securities and futures industry was put in place following the Report of the Securities Review Committee in 1988. This structure was reflected in the Securities and Futures Ordinance enacted in 2004. The essence of the structure is that operation of the market should rest with a market operator (HKEx) close to the market under the supervision of the SFC.

- (ii) As HKEx has both business and regulatory functions, its administrative structure is designed in such a way that a “Chinese wall” exists that segregates the business units from the regulatory unit. This mechanism seeks to ensure that the HKEx is, and is seen to be, performing its regulatory functions in a fair and independent manner not influenced by its own business considerations. The HKEx board has delegated its functions and powers in relation to listing matters to the Listing Committee. The Board does not exercise jurisdiction in relation to any matters to do with listing.
  
- (iii) The Listing Committee is the constituted authority in all matters related to listings. All Listing Committee members are appointed by an independent nominating committee. The Chief Executive of HKEx, who is a member of the listing committee, is the only bridge between the business side of HKEx and the Listing Committee. The Listing Committee approves any changes to the Listing Rules, before approval by the Board of the Stock Exchange of Hong Kong Limited and final approval of the SFC.

### Korea Exchange (KRX)<sup>2</sup>

#### *Market background*

1. KRX is the sole securities exchange in Korea and operates three markets. They are KOSPI Market as the main board, KOSDAQ Market as a venue for small and medium sized enterprises, and Derivatives Market.
2. Derivative instruments accounted in the WFE figures are instruments listed in the KOSPI Market (e.g. equity linked warrants (ELW)). KRX also operates the Derivatives Market, which mainly provides access to futures and options.

#### *Current regulatory framework and ongoing regulation*

3. The Financial Services Commission (FSC), an independent government agency, is the regulatory authority for the Korean financial and securities market. As part of its regulatory oversight, the FSC deliberates and decides on policy matters relating to the inspection and supervision of financial institutions and the securities and futures markets. It also has the authority to issue and revoke licenses of financial institutions.
4. Under the Financial Investment Services and Capital Markets Act, the KRX has the authority to establish and enforce its own rules and regulations for market operation, listing, disclosure and governance<sup>3</sup>. Market Oversight Commission, an internal specialized agency of the KRX, is responsible for KRX's self-regulatory activities, including market surveillance, investigation into abnormal trading activities, member supervision and self-mediation of disputes. The members of this Commission are independent and recommended by the FSC and the Korea Financial Investment Association.

#### *The exchange's role in the listing approval process and the review of documents*

5. The listing procedures for securitized derivatives like ELWs follow the KOSPI Listing Regulation which is applicable to equity securities, except that no Listing Committee review is required. The KRX will conduct the listing eligibility review and notify the applicant and the FSC of the review result. The Listing Committee advises the chairman of KOSPI Market and reviews important issues such as initial public offering and delisting due to financial problems<sup>4</sup>. The KRX approves the listing application and lists the securities after the issuer has filed the registration statement with the FSC (it may delegate this responsibility to the Financial Supervisory Services (FSS) which is headed by the governor).

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<sup>2</sup> Main source of information: KRX's website (<http://eng.krx.co.kr/>) and FSC's website (<http://www.fsc.go.kr/eng/>)

<sup>3</sup> Part 7 of the Financial Investment Services and Capital Markets Act

<sup>4</sup> Information provided by a KRX's representative from the Product Development division.



6. An issuer must file with the FSC a registration statement which contains required details of the offering. Issuers file documents to the FSC via an electronic disclosure system. The registration statement will become effective upon the expiry of the mandatory waiting period and, at the same time, the issuer shall issue a prospectus which contains information substantively similar to that provided in the registration statement. The FSC/FSS does not give explicit clearance of the document.
7. FSC/FSS accepts designated issuers to file shelf-registrations. The issuer is not required to separately file a registration statement for multiple and similar kinds of securities to be publicly offered in a prescribed period (up to a year). Supplemental documents are also submitted for review electronically each time when the securities are publicly offered<sup>5</sup>.

## **Deutsche Borse<sup>6</sup>**

### *Market background*

8. Deutsche Borse operates the Frankfurt Stock Exchange (FWB) and holds 85% share in the derivatives exchange Eurex. It also operates a joint venture with Swiss Exchange (Scoach Europa AG) for the trading of structured products (including certificates, warrants and reverse convertibles) in Germany and other EU countries.

### *Current regulatory framework and ongoing regulation*

9. All German securities markets and providers of financial and securities trading services are subject to national supervision by Federal Financial Supervisory Authority (BaFin). BaFin is the securities supervisory authority in Germany. It is an independent federal institution and is subject to the supervision of the German Federal Ministry of Finance. Its primary objective is to guarantee the proper functioning, stability and integrity of the of the German financial system. According to the German Securities Trading Act, BaFin examines market abuse (insider dealing and market manipulation) and is in charge of supervising the fulfillment of reporting rules and disclosure requirements to ensure market transparency. BaFin collects information on all securities traded as well as disclosures from listed companies. This information is used to detect insider trading, price and market manipulation.
10. Supervision of the individual stock exchanges is the responsibility of the relevant Exchange Supervisory Authority in each Federal State which monitors the orderly conduct of trading on the individual exchanges in accordance with the provisions of

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<sup>5</sup> FSS Handbook 2010 and the Financial Investment Services and Capital Markets Act

<sup>6</sup> Main source of information: Deutsche Borse Group's website ([http://deutsche-boerse.com/dbag/dispatch/en/kir/gdb\\_navigation/home](http://deutsche-boerse.com/dbag/dispatch/en/kir/gdb_navigation/home)) and BaFin's website (<http://www.bafin.de>)

the German Stock Exchange Act. The exchange rules are also subject to approval by the Exchange Supervisory Authority.

11. The FWB's internal regulatory framework includes the following executive bodies, which are required by law:

- Exchange Council

The Exchange Council is established by the exchange under the German Stock Exchange Act. It consists of up to 24 members including representatives from credit institutions admitted to participate in exchange trading and investors. The Exchange Council enacts the exchange rules and internal rules for the management of FWB. It is also responsible for the appointment, dismissal and supervision of the Management Board.

- Management Board

The Management Board is supervised by the Exchange Council. It is responsible for all tasks not expressly assigned to other bodies within the exchange pursuant to the law, including the admission to trading and decisions on suspension and delisting of securities. It also supervises the follow-up obligations of issuers.

- Trading Surveillance Office

Trading Surveillance Office is an independent supervisory body of the exchange and monitors the markets. It operates in conjunction with the State Exchange Supervisory Authority.

12. Other German exchanges (e.g. Stuttgart Stock Exchange) are subject to the same regulatory framework as mentioned above.

*The exchange's role in the listing approval process and the review of documents*

13. The admission of securities to the regulated market is the responsibility of the Management Board.

14. A prospectus or base prospectus (for issue under an issuance program) has to be published before structured products may be offered to the public and before they are admitted to trading on an organised market. BaFin acts as the central depository for approving prospectuses and base prospectuses and checks them for completeness and consistency, but not the accuracy of the content. The document may not be published until it has been approved by BaFin. BaFin must be notified of the publication. A base prospectus for an issuance program shall be valid for a

period of 12 months following its publication. Term sheets for specific offers are filed with Bafin before publication<sup>7</sup>.

## **SIX Swiss Exchange<sup>8</sup>**

### *Market background*

15. All structured products (including derivative warrants) admitted by the SIX Swiss Exchange are traded on the Scoach platform. Scoach Switzerland Ltd is a securities exchange under Swiss law and a SIX Group Ltd / Deutsche Börse AG joint venture that trades in structured products in Frankfurt and Zurich. Scoach is not licensed to admit issuers and securities to trading and trades only products admitted by the SIX Swiss Exchange.

### *Current regulatory framework and ongoing regulation*

16. Financial Market Supervisory Authority (FINMA) is the government supervisory authority for stock exchanges and securities dealers in Swiss. Its overall supervision mainly relates to granting operating licences and approving stock exchange rule books. It also covers ongoing monitoring by means of audits and investigation into the unlawful activity or other improprieties reported by the Exchanges or which it itself suspects. The exchange rules and regulations are subject to FINMA's approval.
17. The Swiss system of stock exchange supervision is based on the principle of self-regulation. The admission of securities as well as the organization and supervision of the market are left, to a great extent, to the exchanges<sup>9</sup>.
18. The SIX Swiss Exchange, operated by the BoD SIX Group Ltd, are obligated under federal law to regulate issuers, securities dealers and trading<sup>10</sup>. It performs the regulatory functions through the following internal bodies:

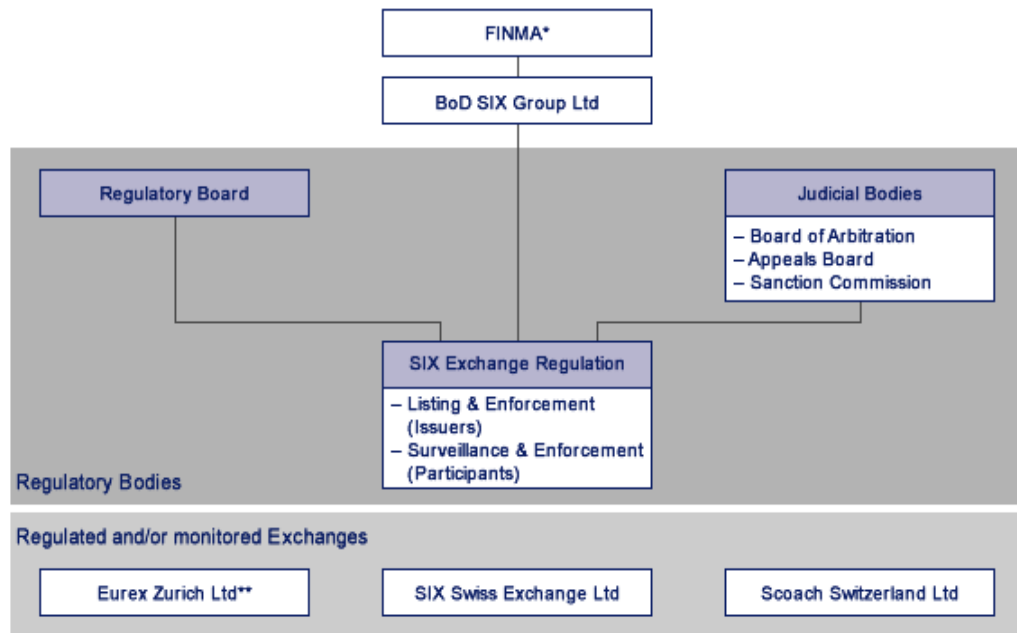
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<sup>7</sup> Act on the Drawing up, Approval and Publication of the Prospectus to be Published when Securities are offered to the Public or Admitted to Trading on an Organised Market

<sup>8</sup> Main source of information: SIX Exchange Regulation website (<http://www.six-exchange-regulation.com>) and FINMA's website (<http://www.finma.ch>)

<sup>9</sup> Art. 4 of the Federal Act on Stock Exchanges and Securities Trading and SIX Swiss Exchange's website

<sup>10</sup> Six Group Ltd Rules of Organisation for the Regulatory Bodies of the Group' Exchanges



(Source: [http://www.six-exchange-regulation.com/about\\_us/organisation\\_en.html](http://www.six-exchange-regulation.com/about_us/organisation_en.html))

- Regulatory Board

The Regulatory Board is comprised up to 17 members, six of whom are drawn from economiesuisse and nine from the BoD SIX Group Ltd. The Regulatory Board is the highest legislative body under the self-regulation regime and its responsibilities include approval of listing and determination of rules and regulations. FINMA has the right to be consulted before the appointment of members of the Regulatory Board.

- SIX Exchange Regulation

The SIX Exchange Regulation carries out the tasks prescribed under federal law and the rules and regulations issued by the Regulatory Board, and monitors compliance with these various regulations.

*The exchange's role in the listing approval process and the review of documents*

19. All listing decisions are taken by the internal governing bodies. The Regulatory Board has the authority to approve listing applications<sup>11</sup>. The Regulatory Board has delegated the authority to approve listings of derivative products to the Issuer Committee which has delegated the authority to approve listings of standard derivative products (i.e. products that are well known in the Swiss Market and that

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<sup>11</sup> Art. 8 of the Federal Act on Stock Exchanges and Securities Trading

fulfill all the listing requirements) to the Issuer Committee Office under SIX Exchange Regulation<sup>12</sup>.

20. SIX Exchange Regulation is also responsible for the review and approval of the listing prospectuses and base prospectuses (for issues under SIX Swiss Exchange-registered issuance programs). Derivatives may be listed under an issuance program by submitting the issuance program and a sample of the final term sheet to the Regulatory Board in advance for review and registration. An approved issuance program is valid for 12 months. The final term sheet containing all definitive conditions for the issue may be reviewed after they are filed<sup>13</sup>.

## **NYSE Euronext (Europe)<sup>14</sup>**

### *Market background*

21. NYSE Euronext (Europe) is the operator of five exchanges in Europe (Amsterdam, Brussels, Lisbon, Paris and London). Among them, Euronext Paris is dominant in terms of the number of regulated markets it operates (one stock market and two derivatives markets).

### *Current regulatory framework and ongoing regulation*

22. Each of the Euronext exchanges holds an exchange license granted by the relevant national exchange regulatory authority and operates under its supervision. Each of them is also subject to national laws and regulations in its jurisdiction in addition to the requirements imposed by the national exchange authority and, in some cases, the central bank and/or finance ministry in the relevant European country. Regulation of Euronext and its constituent markets is conducted in a coordinated manner by the respective national regulatory authorities pursuant to memoranda of understanding relating to the cash and derivatives markets.
23. Euronext has adopted a harmonized rulebook that sets out a unified set of listing standards for all Euronext's markets in different locations. These harmonized listing standards and a set of exchange-specific rules set forth the criteria required for the listing of securities on Euronext's exchanges, as well as ongoing requirements (the rules cover different categories of securities, including warrants). The Euronext exchanges are responsible for the ongoing regulation of the listed securities<sup>15</sup>.

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<sup>12</sup> Six Group Ltd Rules of Organisation for the Regulatory Bodies of the Group' Exchanges and further information provided by a Scoach representative (CEO of Scoach).

<sup>13</sup> Art 21 and 22 of the Additional Rules For the Listing of Derivatives

<sup>14</sup> Main source of information: Euronext's website (<http://www.euronext.com>) and AMF's website (<http://www.amf-france.org/>)

<sup>15</sup> Information provided by an Euronext Paris's representative from the Exchange Traded Products division

24. In France, the regulator of Euronext Paris is Autorité des Marchés Financiers (AMF). It is an independent public body that is responsible for safeguarding investments in financial instruments as well as maintaining orderly financial markets in France.

*The exchange's role in the listing approval process and the review of documents*

25. Listing of structured products (e.g. warrants and certificates) is subject to the AMF's approval<sup>16</sup>. An issuer that makes a public offering of equity or debt securities must file a prospectus or a base prospectus (for issue under an issuance program) with the AMF for its approval<sup>17</sup>. In the case of an issuance program, the base prospectus shall be valid for 12 months. The final term sheet for each issue shall be filed with the AMF before the offer is launched<sup>18</sup>.
26. After the AMF approves the listing documents, the exchange approves the listing application and signs listing agreement with the issuer. The exchange is responsible for notifying the public of admissions, final listing inclusion, corporate actions and delistings<sup>19</sup>.

**London Stock Exchange (LSE)<sup>20</sup>**

*Market background*

27. LSE operates the Regulated Market in London. It offers a range of securitized derivatives products (which are referred as options or contracts for difference in the UKLA Listing Rules) including covered warrants and other structured products. It admits trading of securitized derivatives products that are approved for listing by the UK Listing Authority (UKLA).

*Current regulatory framework and ongoing regulation*

28. The Financial Services Authority (FSA) is the statutory regulator responsible for regulating financial services in the UK. The listing process and the ongoing regulation of listed companies / securities is controlled by the UKLA which is a part of the FSA. The FSA Handbook includes the listing rules concerning the eligibility requirements for listing and the continuing obligations that apply thereafter. LR Chapter 19 set out the requirements for listing securitized derivatives, including eligibility of issuers.

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<sup>16</sup> Source: <http://www.euronext.com> and information provided by the Euronext Paris's representative.

<sup>17</sup> Article L.412-1 of the French Monetary and Financial Code.

<sup>18</sup> Article 212-25 and paragraph 1 of section 3 of the AMF General Regulation (Issuers and Financial Disclosure)

<sup>19</sup> Information provided by the Euronext Paris's representative

<sup>20</sup> Main source of information: FSA's website (<http://www.fsa.gov.uk>) and LSE's website (<http://www.londonstockexchange.com>)

*The exchange's role in the listing approval process and the review of documents*

29. The UKLA is responsible for admitting securities to the Official List. It has the listing approval authority and is responsible for the review and approval of the prospectuses and base prospectuses (for issues under issuance programs). The UKLA will admit the listing of all securities to be issued under the issuance program approved by it within 12 months after the publication of the base prospectus. The final terms for each specific issue shall be submitted in writing to the UKLA before the offer<sup>21</sup>.
30. In conjunction with the Official List, an application must be made for admission to trading on the LSE. Admittance to the LSE will only be accepted after the UKLA's approval has been granted.<sup>22</sup>

**Taiwan Stock Exchange (TWSE)**<sup>23</sup>

*Market background*

31. Listed securities on TWSE currently include stocks, entitlement certificates of convertible bonds, convertible bonds, government bonds, beneficiary certificates, call (put) warrants<sup>24</sup>, ETFs and Taiwan Depository Receipts. On 2 June 2011, the TWSE said that local brokerage houses or investment banks are expected to begin issuing callable bull/bear contracts as early as July<sup>25</sup>.

*Current regulatory framework and ongoing regulation*

32. Taiwan Financial Supervisory Commission (FSC), a government body, is the primary regulatory authority governing the financial services industry in Taiwan. The FSC determines financial policy, drafts laws and rules with regard to the financial industry, conducts financial examinations and supervises financial institutions. Under the FSC, the Securities and Futures Bureau (SFB) is responsible for regulating the securities industry.
33. TWSE enforces rules, regulates the trading of securities and supervises the conduct of issuers as part of its overall functions as a regulatory body.

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<sup>21</sup> Rule 3.4.7 and 3.4.8 of the UKLA Listing Rules.

<sup>22</sup> "Covered Warrants & other Structured Products Policies & Procedures" issued by the LSE

<sup>23</sup> Major source of information: TWSE's website (<http://www.twse.com.tw>)

<sup>24</sup> TWSE defines "call (put) warrants" as "*the securities issued by a third party other than the issuing company of the underlying securities, which represent that the holder of such call (put) warrants has the option to purchase the underlying securities from, or sell the same to, the issuer at the agreed strike price during the option period or on a specified maturity date or to collect a spread by settlement in cash*".

<sup>25</sup> A TWSE's press release issued on 2 June 2011 ([http://www.twse.com.tw/ch/about/press\\_room/tsec\\_news\\_detail.php?id=7886](http://www.twse.com.tw/ch/about/press_room/tsec_news_detail.php?id=7886))

*The exchange's role in the listing approval process and the review of documents*<sup>26</sup>

34. For the listing of call (put) warrants, an applicant must apply to the TWSE for qualification as a call (put) warrants issuer. The TWSE will perform an examination upon the receipt of the application and then submit the application, along with its review opinion, to the FSC for approval.
35. After receiving approval from the FSC to issue call (put) warrants, the qualified issuer will apply to the TSWE for the listing of the call (put) warrants. The TWSE will review the issuance plan and submit the listing agreement executed between the TWSE and the issuer for FSC's approval.
36. The issuer is required to prepare a prospectus for each specific issue of call (put) warrants. TWSE is responsible for the review and approval of the prospectus.

**Singapore Stock Exchange (SGX)**<sup>27</sup>

*Market background*

37. Structured warrants are listed on the Main Board of the SGX.

*Current regulatory framework and ongoing regulation*

38. The Monetary Authority of Singapore (MAS), as the statutory regulator, administers the corpus of statutory law regulating the capital markets, and oversees SGX's exercise of its regulatory responsibilities. The MAS is also the licensing authority for conducting regulated investment activities in Singapore. Issuer of structured warrants must be licensed and supervised by the MAS<sup>28</sup>.
39. The SGX is the frontline regulator of the securities and futures markets in Singapore. Its Issuer Regulation division is responsible for listing, monitoring ongoing compliance with listing requirements, and providing support on regulatory issues to issuers.

*The exchange's role in the listing approval process and the review of documents*

40. The SGX is responsible for the listing approval process. When applying for the listing of structured warrants, an issuer must submit an indicative term sheet which set out the principal features of the structured warrants to the SGX for its approval.

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<sup>26</sup> According to "Taiwan Stock Exchange Corporation Rules Governing Review of Call (Put) Warrant Listings" and "Taiwan Stock Exchange Corporation Rules for Review of Call (Put) Warrant Listings"

<sup>27</sup> Main source of information: SGX's website (<http://www.sgx.com>) and MAS's website (<http://www.mas.gov.sg>)

<sup>28</sup> Rule 502 of the SGX Listing Rules



The SGX is also responsible for the review of base listing documents. Supplemental listing documents are filed electronically and in practice not reviewed.

41. The listing of structured warrants is at the sole discretion of the SGX. The MAS is not involved in this listing process<sup>29</sup>.

## **Australian Securities Exchange (ASX)<sup>30</sup>**

### *Market background*

42. ASX provides the platform for trading of various structured products, including derivative warrants and AQUA Products<sup>31</sup>. AQUA Products include, but are not limited to, Managed Funds, ETFs and Structured Products.

### *Current regulatory framework and ongoing regulation*

43. Australian Securities and Investments Commission (ASIC), an independent government agency, is Australia's corporate, markets and financial services regulator. It assesses how effectively authorized financial markets are complying with their legal obligations to operate fair, orderly and transparent markets. Since, 1 August 2010, it is also responsible for the supervision of trading on Australia's domestic licensed equity, derivatives and futures markets (this function was previously discharged by the ASX). In addition, ASIC licenses and monitors financial services businesses that typically deal in managed funds, shares and company securities, derivatives, insurance and superannuation.
44. The ASX retains the responsibility for supervising the entities listed on it and ensures market participants comply with its operating rules. It is responsible for the admission of trading, monitors and enforces compliance with the ASX Listing Rules and ASX Operating Rules that govern the listing and regulation of derivative warrants and AQUA Products.

### *The exchange's role in the listing approval process and the review of documents*

45. ASX has absolute discretion to approve warrant and AQUA Product issuers and to admit warrants and AQUA products for trading<sup>32</sup>.

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<sup>29</sup> Information provided by a SGX's representative from the Issuer Regulation division.

<sup>30</sup> Main source of information: : ASX's website (<http://www.asxgroup.com.au>) and ASIC's website (<http://www.asic.gov.au>)

<sup>31</sup> "AQUA" stands for "ASX Quoted Assets. In the "Overview and Operational Guide for product quotations on ASX under the AQUA Rule framework – Managed Funds, ETFs and Structured Products" issued by the ASX, AQUA Products is described as "...third party issued products that give investors exposure to an underlying asset or set of assets, but where the value of the assets is not under the control of the issuer...That is the value of the Product is linked to the performance of the underlying assets rather than the financial performance of the issuer itself."

46. Warrant and AQUA Product issuers are required to prepare proper disclosure documents for the products issued. These documents should be lodged with the ASIC. ASIC will conduct selective compliance reviews of these disclosure documents following their lodgment.

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<sup>32</sup> ASX Operating Rules Schedules 10.2.3 & 10.3.1(c) (for warrants) and 10A.2.3 & 10A.3.3 (for AQUA Products)