

FrontLine SIX x-clear Ltd

Compliance with the Swiss Financial Market Infrastructure Act (FMIA)

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*This information is based on Swiss law (FMIA legislation). Equivalent rules apply in European law (art. 39 para. 4 and 5 EMIR) for Members domiciled in the European Union.

1.0 Overview

The Financial Market Infrastructure Act (FMIA) and the Financial Market Infrastructure Ordinance (FMIO) were enacted on 1 January, 2016. The new legislation together with the existing National Bank Ordinance (“NBO”) creates a regulatory framework for Financial Market Infrastructures (“FMI”) in Switzerland which shall ensure equivalence with respective regulatory frameworks abroad, namely in the EU. As regards SIX x-clear Ltd (“x-clear”), such equivalence is particularly relevant in comparison to the EU’s EMIR legislation (Regulation 648/2012 and its regulatory technical standards). The equivalence of the Swiss regime with EMIR had already been officially acknowledged by the European Commission by its decision 2015/2042.

Affected FMIs such as x-clear are required to fully comply with the new regulation latest until 31 December 2016. x-clear – which currently is licensed as a bank (in the absence of an FMI status until 2016) – will submit its formal application as an FMI to FINMA no later than 31 December 2016. Any services and products offered by x-clear today will be continued also under the new FMIA regulation.

While the rules of the FMIA legislation in the clearing business mainly address central counterparties, they also contain rules concerning Members directly, in particular regarding account segregation (Art. 59 FMIA) and portability (Art. 55 FMIA).

2.0 Effective date

The impacts on participants outlined hereafter are effective as of 1 January 2017.

3.0 Asset segregation (Art. 59 FMIA)

3.1 Segregation of proprietary and indirect participants’ assets (Art. 59 para. 1 FMIA)

Members must mandatorily segregate their proprietary assets (including receivables, liabilities and collateral in the form of securities or cash) from those of their indirect participants** by maintaining separate accounts for them at x-clear.

**Terminology of FMIA which corresponds with “Indirect Member” in the Contractual Relationship to x-clear and with “client” in EMIR

3.2 Omnibus client account segregation (Art. 59 para. 2 FMIA)

If not requested otherwise by the indirect participants (see clause 3.3 hereafter), the Member may keep the indirect participants’ positions and collaterals in omnibus accounts at x-clear. Such omnibus accounts will be designated to the indirect participants. An omnibus client account segregation is the minimal segregation requirement from the Member’s assets.

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3.3 Individual client account segregation (Art. 59 para. 2 FMIA)

Upon request of an indirect participant a Member must segregate assets of an indirect participant in designated accounts at x-clear separating such indirect participant's assets from the assets of other indirect participants of the Member.

For further details see chapter 20.0 GTC and chapters 11.0 and 12.0 Clearing Terms.

4.0 x-clear's offering to Members

4.1 Segregation

The current account segregation offering of x-clear is compliant with FMIA and has been available since September 2014 (see our Clearing Notice of 9 September 2014), i.e. when x-clear became EMIR compliant.

In order to enable Members to meet these in force legal requirements, x-clear awaits respective instructions from Members. Such instructions shall be given by **form 007 "NCM Instruction for account segregation and portability"** (see: <http://www.six-securities-services.com/dam/downloads/clearing/forms/six-x-clear/clr-form-007-x-clear-ncm-en.pdf>):

Please note that any request for segregation (omnibus or individual) shall be submitted to x-clear no later than 30 September 2016. Kindly be aware that x-clear will not set-up any segregated accounts without a respective instruction by the participant.

In that respect no additional reminder will follow.

Any request submitted after 30 September 2016 will be processed on a reasonable effort basis only.

4.2 Portability and Default management procedures

The current Portability and Default management procedures implemented and maintained by x-clear fulfill the requirements under relevant FMI and insolvency legislation. For further details, see chapter 28.0 GTC of x-clear.

Respective instructions shall also be given by the GCM by way of form 007 "NCM Instruction for account segregation and portability". If no portability instruction is given, Close-out shall apply (according to clause 28.2 GTC).

5.0 Contacts

If you have any further questions, please contact the Client Service Team. The contact details are mentioned in the list of SIX SIS contacts published at www.six-securities-services.com > Login > SIX SIS Private > Contacts > List of SIX SIS contacts > Account Management / Client Service Team, e-mail: clientserviceteam@sisclear.com.

For further information, please contact your Relationship Manager. The contact details are mentioned in the list of x-clear's contacts published at > www.six-securities-services.com > Clearing > Contacts.

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In this context, SIX x-clear Ltd draws the Members' attention to clauses **7.1 lit. f. and 25.3** General Terms and Conditions of SIX x-clear Ltd stipulating that the Member bears responsibility for the tax requirements and consequences of clearing with x-clear pursuant to the Applicable Law and that SIX x-clear Ltd assumes no liability for any charges or other negative consequences arising in conjunction with clearing through SIX x-clear Ltd that are a result of tax laws or ordinances issued by tax authorities pursuant to the Applicable Law.