

To all companies participating in the Regulated Market at Frankfurter Wertpapierbörse (FWB[®], the Frankfurt Stock Exchange)

13 July 2017

Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (Prospectus Regulation)

Dear Sir or Madam,

on 30 June 2017, the Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (Prospectus Regulation) has been published in the official Journal of the European Union. It is directly applicable and has precedence over the Wertpapierprospektgesetz (WpPG, German Securities Prospectus Act).

We would particularly like to draw your attention to the revision of the exemptions regarding the obligation to publish a prospectus set out in Article 1, paragraph 5, letter a, b and c of the Prospectus Regulation. This regulation shall apply **from 20 July 2017** (Article 49, paragraph 2, Prospectus Regulation). With regards to **securities admitted to trading on the regulated market without the obligation to publish the prospectus** and compared to the former regulations in the German Securities Prospectus Act (WpPG), significant changes have been made.

In amendment to § 4 paragraph 2, No. 1 of the WpPG, there is the possibility to admit securities to trading without the obligation to publish a prospectus, which are fungible with securities already admitted to trading, provided that they represent, over a period of twelve months, less than **20 percent** of the number of securities already admitted to trading (Article 1, paragraph 5, letter a, Prospectus Regulation).

Apart from having increased the ten percent limit to 20 percent, the scope has been extended to **fungible securities**, resulting that shares of the same class are as fungible as newly issued shares with deviating profit entitlements.

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With the amendment of the previous admission practice of the Frankfurter Wertpapierbörse (FWB), the determination of the 20 percent limit is based on the number of securities already admitted to trading **at the date of the admission**. All securities without prospectus, which have been admitted within the twelve previous months, are subtracted from this sum (100 percent), i.e. in this calculation, capital increases that have been admitted under § 4 paragraph 2, No.1 WpPG will be taken into account. Provided that within the twelve month period, a security prospectus has been published, the previously admitted securities without prospectus will not be taken into account. Further details about the crediting of securities according to Article 1, paragraph 6 (Prospectus Regulation) will be explained below.

Moreover, shares can be admitted without a prospectus if they result from the conversion or exchange of securities or the exercise of rights attached to other securities, provided that the resulting shares represent, over a period of 12 months, less than 20 percent of the number of shares of the same class already admitted to trading (Article 1, paragraph 5, letter b, Prospectus Regulation).

What is new here is the limitation of **20 percent** for shares to be admitted. According to the previously applied regulation § 4 paragraph 2, No.7 WpPG for the admission of conditional capital to back convertible bonds or options, such a limitation did not exist.

The 20 percent limit will be determined based on Article 1 paragraph 5 letter a Prospectus Regulation. Further characteristics regarding the crediting of securities according to Article 1 paragraph 6 Prospectus Regulation will be explained below.

The **20 percent limit does not apply**, if **alternatively** one of the factors in Article 1 subparagraph 2 letter a to d, Prospectus Regulation, are fulfilled.

An admission without prospectus according to Article 1 paragraph 5 letter c Prospectus Regulation depends on the circumstances of each single case.

The Prospectus Regulation explicitly allows the **combination** of the described exemptions from the obligation to publish a prospectus (Article 1 paragraph 6, Prospectus Regulation). This is in accordance with the administrative practice of the FWB. At the same time, the combination of the described exemptions from the obligation to publish a prospectus (Article 1 paragraph 5, letters a and b, Prospectus Regulation) should not cross the 20 percent limit (Article 1 paragraph 6, sentence 2, Prospectus Regulation). The 20 percent limit will be determined as already explained above. It should be noted that the combination rule will not apply before **21 July 2019** (Article 49, paragraph 2 Prospectus Regulation). Until this date, the 20 percent limit does not apply to the combinations.

Unless expressly provided otherwise, the Prospectus Regulation does not differentiate between securities, which have been issued before the coming into

effect of the Prospectus Regulation, and securities, which have been issued after the coming into effect of the Prospectus Regulation. Therefore, an admission without prospectus according to the exemptions from the obligation to publish a prospectus is also possible for shares, which have been issued **before 20 July 2017**.

An application for admission, adapted to the new legal framework, is attached to this circular. The use is strongly recommended in order to facilitate future admission processes.

Please do not hesitate to contact us in case of any questions you might have.

Yours faithfully,



Cord Gebhardt



Maren Pfeiffer

Attachment

Application for admission of securities to exchange trading in the Regulated Market