

Consumers

23.11.2022 | Topic Unauthorised business, Prospectuses

Swiss Group Finance Corporation: suspected violation of the prospectus requirement

BaFin has sufficient grounds to suspect that Swiss Group Finance Corporation, which states that its registered office is in Toronto (Canada), is offering “over-the-counter preferred shares” of the Swiss Group Finance Corporation to public in Germany without the required prospectus.

Offering securities to the public without an approved prospectus constitutes a violation of the prospectus requirement under Article 3(1) of the EU Prospectus Regulation – unless an exemption applies.

In contravention of Article 3(1) of the EU Prospectus Regulation, no prospectus was published for the public offering. There is no evidence to suggest that the company is exempt from the prospectus requirement.

Unless an exemption from the prospectus requirement applies, securities may be offered to the public in Germany only if a prospectus approved by BaFin in advance has been published. During the approval process, BaFin checks whether the minimum information required by law is included in the prospectus and whether its content is understandable, coherent and consistent. However, BaFin does not check whether the information contained in the prospectus is correct. Moreover, it does not check whether the issuer is reliable nor does it examine the product in question.

If the information in the prospectus is incorrect or incomplete, the party responsible for the prospectus can be held liable under sections 9 and 10 of the German Securities Prospectus Act (Wertpapierprospektgesetz – WpPG). Under section 14 of the WpPG, the same applies to those offering or issuing securities if no prospectus was published as required.

Under section 24 (3) no. 1 of the WpPG, a violation of the prospectus requirement constitutes an administrative offence and, under section 24 (6) of the WpPG, is punishable by a fine of up to EUR 5 million or 3% of total revenues for the previous financial year. Fines of up to twice the economic advantage gained from committing the offence may also be imposed.

Please remember that decisions to invest in securities should always be based solely on the information offerors are required to provide by law.

You can check whether an approved prospectus for an offer of securities to the public has been filed with BaFin by viewing the database Prospectuses filed on the BaFin website.

Please note:

In accordance with section 4 (4) of the German Act Establishing the Federal Financial Supervisory Authority (Finanzdienstleistungsaufsichtsgesetz – FinDAG), BaFin performs its functions and exercises its powers exclusively in the public interest. Due to their statutory obligation of confidentiality, BaFin's staff are not in a position to provide third parties with information regarding the progress and results of administrative proceedings.

However, there are ways in which you can support BaFin's work: if you have any specific information about the offeror mentioned above – such as contract templates, e-mail addresses, telephone or fax numbers of contact persons or the offeror's account details – please do not hesitate to get in touch with contact point for whistleblowers.

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