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Blackout Periods among SLI-Companies – A Brief Survey

Blackout periods restrict trading by insiders of listed companies to prevent the misuse of non-public information, reinforcing market integrity and investor trust. Swiss law provides limited regulation, giving companies a lot of flexibility in the implementation of blackout periods. As a result, practices regarding start and end dates of blackout periods, affected persons and the type of securities that are subject to the blackout periods vary significantly.

This edition of Advestra Insights looks into some of the conclusions drawn from our survey among the constituents of the Swiss Leader Index (SLI). Furthermore, it points towards broader trends of stricter blackout period regimes, including trading windows or broader insider definitions.

1 INTRODUCTION

Blackout periods describe the specific time frames during which a circle of addressees within listed companies is prohibited from trading in securities of that company. Aiming at the restriction of insider trading, banning so-called insiders from exploiting their informational advantage is an important

component of the insider trading compliance programs applicable to Swiss listed companies. While certain forms of trade bans have been selectively incorporated into Swiss regulatory law (e.g., restriction in the context of share buybacks according to Art. 124 FinMIO¹), the setting of general blackout periods for Swiss listed companies related to the publication of (interim) financial results

¹ Ordinance on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading of

25 November 2015 (Financial Market Infrastructure Ordinance, FinMIO, SR 958.11).

remains generally unregulated under Swiss law. Since 2021, SIX Swiss Exchange requires Swiss listed companies to provide information on general blackout periods in their annual corporate governance report. Extraordinary blackout periods, e.g., in connection with transactions that are deemed price-sensitive and during which ad hoc disclosure is postponed, or quiet periods during which corporate executives generally do not engage with market participants and analysts, do, however, not need to be published.

The "comply or explain" principle for corporate governance disclosures according to Art. 7 DCG² also applies to the disclosure of blackout periods. Therefore, in theory companies could decide not to release information on how they handle blackout periods. Due to the practical difficulty of providing a credible explanation as to why a company's interest would be prejudiced by disclosing its general blackout periods, it is not surprising that all analysed Swiss listed companies integrate information on their blackout periods in their annual corporate governance report. As with all information in the corporate governance report, the information is retrospective and covers the period of the prior financial year and issuers are not required to publish details of prospective blackout periods. However, the specific design of the blackout periods is nuanced. Especially regarding the beginning, the duration, the addressees and the securities subject to the trading restrictions, the disclosed information in the corporate governance reports suggests that there is no generally established approach on how Swiss listed companies handle blackout periods. This might result from the exemplary listing of required disclosures (e.g., deadlines,

addressees, the scope and exceptions to the blackout periods) as displayed in item 10 of the DCG Annex, instead of specifying an exact standard by which the information regarding blackout periods must be provided.

The sample companies used for our survey are the constituents of the Swiss Leader Index (SLI)³, containing all of the companies of the Swiss Market Index (SMI) as well as the ten largest titles of the SMI Mid (SMIM)-companies. The findings of this Advestra Insights are based on the analysis of the annual reports and ad-hoc announcements of these companies between 2021 and 2025.

The sample companies approach the determination of the blackout periods differently. Most of them set general rules on how blackout periods are implemented. Typically, the companies report on the starting point of blackout periods (see hereafter in 3), their termination date (see hereafter in 4), the addressees (see hereafter in 5) and the types of securities affected (see hereafter in 6).

2 WHY ARE BLACKOUT PERIODS IMPORTANT?

Art. 154 FinMIA⁴, foreseeing criminal penalties for the exploitation of insider information, underlines today's uncontested view that markets must be protected from individuals exploiting material non-public information. This mainly results from investor inequality being considered unfair and the loss of trust of investors in the capital market leading to disruption of the efficiency of the capital market.⁵ In this context, preventing insider trading is not only perceived as being an obligation of the criminal and administrative

² SIX Directive on Corporate Governance of 29 June 2022 (Directive Corporate Governance, DCG).

³ SLI listed securities as of 7 May 2025: ABB, Adecco (SMIM), Alcon, Geberit, Givaudan, Holcim, Julius Bär (SMIM), Kühne + Nagel International, Lindt (SMIM), Logitech, Lonza, Nestlé, Novartis, Partners Group, Richemont, Roche GS, Roche IA (SMIM), Sandoz (SMIM), Schindler (SMIM), SGS (SMIM), SIKA, Sonova, Straumann (SMIM), Swatch (SMIM), Swiss Life, Swiss Re, Swisscom,

UBS, VAT (SMIM) and Zurich Insurance (total of 29 different companies).

⁴ Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading of 19 June 2015 (Financial Market Infrastructure Act, FinMIA, SR 958.1).

⁵ Cf. BSK-FINMASA/FinMIA, Wohlers/Pflaum, Art. 154 FinMIA, N 2.

legal system, but also a part of a company's corporate governance duties. Implementing blackout periods within a listed company for certain individuals directly restricts insiders from engaging in trade with securities that potentially react sensitively to upcoming publications of financial results due to information already available to insiders. Inadequate safeguards against insider trading can lead to financial and reputational damage, not only for those conducting insider trading but for the company as a whole.

3 BEGIN OF BLACKOUT PERIODS

3.1 Two Approaches: Variable or Fixed Starting Points

Our survey shows that most companies establish clear rules on when their blackout periods commence. This may either be through (i) fixed dates or rules which allow to determine the commencement date of a blackout period or (ii) variable dates or rules which are dependent on another event. Generally, the following observations can be made:

- (i) More than half of the sample companies⁶ start their blackout periods on predetermined fixed dates, such as the 15th day of the last month of a quarter (e.g., Logitech) or the first day of the new quarter (e.g., Nestlé).
- (ii) Some companies make the start of their blackout periods dependent on the date of publication of the financial report (e.g., 30 days prior to publication, as is the case for ABB). The use of other events to set off blackout periods is less frequent. Kuehne+Nagel for example determines two additional events which start the blackout periods for a concerned person: As soon as "the financial results are known" to certain persons and no later than "the day the profit and loss information has been received by the

corporate headquarters". Swatch informs the persons concerned individually of the starting point of the respective blackout periods "as soon as the compilation of the first forecasts" is conducted. Other listed corporates such as Swisscom or Geberit give full discretion to determine the start of blackout periods to an internal clearing unit or an individual (e.g., the CFO in collaboration with the CEO).

- (iii) Other companies including Lindt, Swiss Life and Swiss Re start their blackout periods both on fixed dates (for full and half year results) as well as on variable dates (for interim results).

As financial information within large corporations can be difficult to collect and assess, these processes might not always be conducted within the exact same timeline. Especially for starting points close to the end of a reporting period, the question arises whether determining the start of blackout periods along fixed dates adequately considers these difficulties. On the other hand, fixed dates increase transparency and are easier to handle for the concerned individuals. Variable starts to blackout periods require close monitoring by internal compliance units, thorough explanation to the persons concerned as well as well-established communication streams.

3.2 End of Reporting Period and Begin of Blackout Period

The closer the starting point of the blackout period lies to the end of the reporting period, the more information is available to insiders. This results in an increased certainty that actual results will correspond to the preliminary information and, therefore, leads to a larger information gap which could be exploited. Consequently, the beginning of a

⁶ 15 out of 26 Companies with an established set of rules on the starting point of blackout periods, including: Adecco Group, Alcon, Logitech, Lonza, Nestlé, Novartis,

Richemont, Roche, Sandoz, Schindler, SGS, Sonova, Straumann, UBS, VAT Group.

blackout period is particularly relevant with regard to its effectiveness.

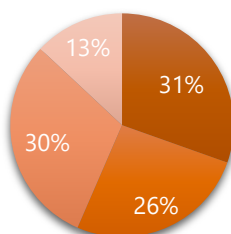
Typically, SLI-companies disclose some form of financial results quarterly (even if just by trading update for quarterly figures). However, as displayed above in 3.1, there is not *one* commonly established rule regarding the starting point of a company's blackout periods. This inherently leads to different effective starting dates of blackout periods which can broadly speaking be divided into four categories:

- (i) Approximately 31% of the SLI-companies, including Alcon, Logitech and Lonza set an example for early beginnings by starting their trading restriction periods more than ten days prior to the end of a reporting period.⁷ UBS and Sonova are the front-runners when it comes to early starts of blackout periods among SLI-companies, initiating

their blackout periods more than three weeks and up to one month prior to the end of a fiscal period to their quarterly or, as is the case for Sonova, half-yearly publication of financial results.

- (ii) Other companies (approximately 26% of the SLI-companies) start their blackout periods ten days before until the last day of the reporting period.⁸ Straumann, SGS and the VAT Group for example commence their blackout periods on the last day of their quarterly reporting periods.
- (iii) 30% of SLI-companies start their blackout periods after the end of the reporting period for which the blackout period is implemented.⁹
- (iv) A minority of the sample companies can be assigned to multiple of the above-mentioned categories. For example, Richemont starts its blackout periods generously early in relation to publication of their end-of-calendar-year

Begin of Blackout Periods



- (i) More than ten days prior to the end of a reporting period
- (ii) Between ten days prior and the end of a reporting period
- (iii) After the start of a new reporting period
- (iv) Blackout periods have different starting points in relation to the end of the relevant reporting period

Illustration 1: Begin of Blackout Periods

⁷ 7 out of 26 companies which inform on the set of rules regarding the start of blackout periods on the annual report: Alcon, Lindt, Logitech, Lonza, Sonova, Swatch and UBS.

⁸ 6 out of 26 companies which inform on the set of rules regarding the start of blackout periods on the annual

report: Adecco Group, Givaudan, SGS, Sika, Straumann, VAT Group.

⁹ 7 out of 26 companies which inform on the set of rules regarding the start of blackout periods on the annual report: Geberit, Holcim, Nestlé, Novartis, Sandoz, Schindler, Swiss Life.

interim results, while the other blackout periods begin in the new reporting period.¹⁰

Approximately one-third of SLI-companies set the start of a blackout period after the end of a reporting period. Whereas companies like Richemont and Roche vary the timing of the start of their blackout periods depending on whether they precede the publication of annual/half-yearly or interim results – initiating them either just a couple of days before the end of the reporting period or even on the first day of the new reporting period – some SLI-companies commence all of their blackout periods after the end of the reporting period. This might be justified for globally operating groups due to the increased complexity consolidating results prior to the end of a reporting period and for other companies that cannot reliably forecast their financial results before the end of the relevant period, be it due to their business model or otherwise. For other companies, it remains a balancing act between insider trading prevention and reputational considerations and practical aspects, such as ensuring tradability in its own stock for

executives and, more generally, remaining an attractive employer for skilled executives.

4 END OF BLACKOUT PERIODS

The effectiveness of a blackout period is closely related to its ending point. Again, no generally established standard among SLI-companies on when blackout periods are terminated can be observed. The practice among SLI-companies can be synthesized into the following categories (summarized in illustration 2):

- (i) Among other companies, UBS, Nestlé and Roche end their blackout periods upon publication of the financial results.¹¹ Holcim is the only company in the SLI-index that, according to its reporting on corporate governance, ends blackout periods on the last trading day before the publication of the financial results. By ending the blackout period before the information is made public, this practice potentially sets a false incentive for insiders to place stock purchase orders based on

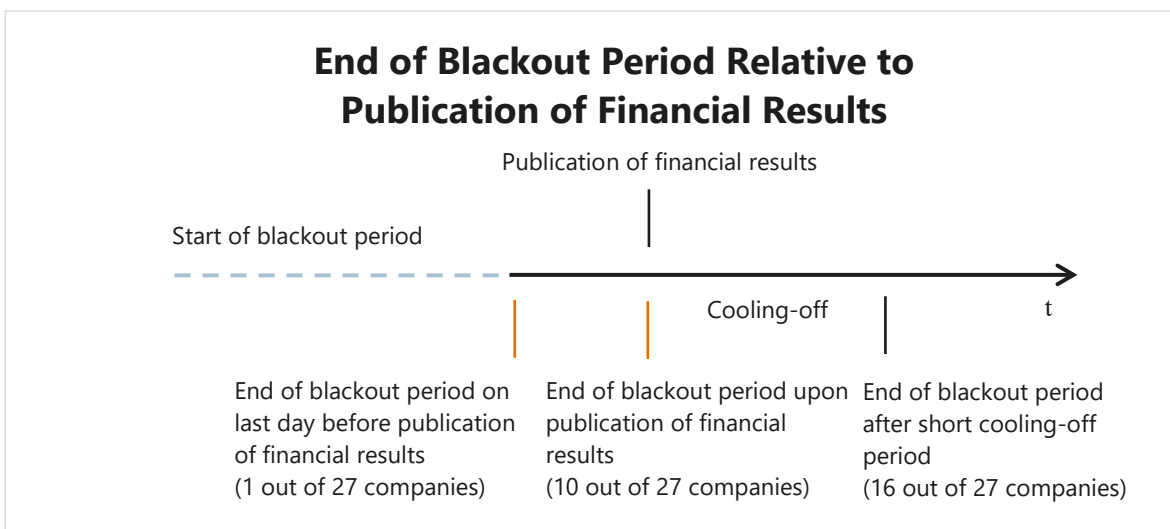


Illustration 2: End of Blackout Period Relative to Publication of Financial Results

¹⁰ 3 out of 26 companies which inform on the set of rules regarding the start of blackout periods on the annual report: ABB, Richemont, Roche.

¹¹ 10 out of 27 companies which inform on the set of rules regarding the ending point of blackout periods in

their annual report: ABB, Kuehne + Nagel, Nestlé, Richemont, Roche, SGS, Straumann, Swatch, UBS, Zurich Insurance.

informational advantages during a short window between the end of a blackout period and the publication of the financial results. Ending blackout periods out of trading times just before or upon publication of the financial results allows insiders to engage in trades upon the opening of the market before the financial results have been fully priced in by the market.

- (ii) The majority of SLI-companies end their blackout periods only after the publication of the financial results.¹² While some companies include the day of publication in the trading ban (e.g., Swatch), Sonova, for example ends its blackout periods two full trading days after the publication of the financial results. This period accounts for the reaction time of the market to incorporate the financial statement into the price of the company's stock. No SLI-company applied a period of more than two trading days to end its blackout period upon publication of its financial results.

In our view, extending the duration of blackout periods until one full trading day after the publication of the financial results affords the market sufficient time to digest the new information ("cooling-off" period), while providing enough flexibility for the issuer to carry out capital market transactions after the market closes on the date of publication.

5 CIRCLE OF PERSONS CONCERNED

The DCG does not specify the persons that must be subject to internal blackout periods. This means that each company can independently determine the scope of individuals subject to blackout periods. In general, the addressees of the blackout periods include the members of the board of

directors and the executive management. Many companies also include employees of certain departments or employees that by the nature of their task have access to insider information regarding the preparation of the financial results. ABB, for example, extends blackout period restrictions to "employees who, due to their factual circumstances, have access to insider information". Lonza extends the restrictions to employees who "are deemed to potentially have access to sensitive information" during these periods. While these employees might easily be identified in hindsight, such formulations can make it difficult to determine as of when certain persons enter the circle of addressees. This is mostly addressed by informing employees via direct messages as of when they are considered insiders according to the internal directives/policies. Alcon, for example, reports to have identified permanent insiders who may continuously be in possession of material non-public information and are therefore kept on an insider list (factually banning such persons from trading in company securities outside of pre-defined trading windows or without explicit prior permission). Holcim, as many others following a similar approach, defines insiders as people who have access to financial results before their disclosure. Sika defines insiders as anyone who has access to confidential information that can be used for insider trading.

Some further observations regarding the persons concerned by blackout periods are to be highlighted:

- At Givaudan, Logitech, Lindt and Swiss Re the entire workforce must adhere to the blackout periods. The same is true since 2024 for Julius Bär. Logitech and others expand the restrictions onto consultants and other contractors with access to confidential information. Lindt also includes third parties if they are in possession of insider information and have

¹² 16 out of 27 companies which inform on the set of rules regarding the ending point of blackout periods in their annual report: Adecco Group, Alcon, Givaudan,

Lindt, Logitech, Lonza, Novartis, Sandoz, Schindler, Sika, Sonova, Swiss Life, Swiss Re, Swisscom, VAT Group.

knowledge of the insider directive and its content.

- Richemont additionally includes people that have acted as members of the board of directors within the last twelve months or former board members acting as advisors. Extending trading bans to former executives remains, however, the exception.
- Schindler explicitly mentions that the company itself is also a person concerned by the trading restriction during blackout periods. This approach of subjecting the company to its blackout period corresponds, in our view, to the general practice.

In practice, the difference in the scope of addressees of general blackout periods seems to be minimal among the SLI-companies, despite different wording in the respective insider trading policies and, hence, room for interpretation when applying these policies.

6 SECURITIES BANNED FROM TRADING

The securities banned from trading during blackout periods are generally defined broadly in the annual reports of the sample-companies. For example, ABB restricts trade in securities as well as any related financial instruments. However, this is not the case for all SLI-companies. Some companies only explicitly mention shares as being subject to the trading bans. As other forms of securities and derivatives and their values can also react to the publication of financial results, there seems to be no reason to limit the trading ban solely to company shares. It is, therefore, advisable to expand the trading restriction at least onto all forms of equity and equity-linked company securities as well as derivatives thereof.

¹³ Further insights on the potential of trading plans under Swiss law: Fehlmann/Ní Annracháin, Blackout

7 ALTERNATIVE SYSTEMS

7.1 Trading Windows

An alternative approach can be observed at least at two SLI-companies. Partners Group for example has established a system of trading windows to control and prevent insiders from exploiting their informational advantage. All Partners Group employees, as well as independent board members, are only permitted to trade in Partners Group securities during two periods in a financial year. These follow the publication of the annual and interim financial results and last for approximately two months. In 2024, Julius Bär also adapted their system, implementing four annual trading windows during which the trade of securities is permitted.

7.2 Trading Plans

Under U.S. securities laws, so-called "10b5-1" trading plans provide an affirmative defense for directors and employees to trading in securities of the company on the basis of material non-public information. Such trading plans, structured as a contract, instruction or written plan and guiding purchases and sales or other transactions with relevant securities could be included in the compliance programs of Swiss companies. Once adopted, the persons participating in such trading plans can act more freely within the scope of the trading plan, leading to less complication and increased security.¹³

8 TENDENCIES AND RECOMMENDATIONS

A comprehensive assessment of the reports on blackout periods among SLI-companies indicates a slight trend towards stricter handling of blackout periods. This can, for example, be observed with the newer regime on the prevention of insider trading by Julius Bär. Expanding the circle of persons concerned as well as limiting trade to

Periods & Trading Plans – An Examination of an Underutilized Tool to Prevent Insider Trading, CapLaw-2023-23.

quarterly trading windows can be seen as part of a broader effort to strengthen corporate governance. Other endeavours like Straumann implementing two additional blackout periods and thereby restricting the trade of own securities quarter-annually for insiders also support this trend.

In our view, blackout periods should start towards – but ideally before – the end of a quarter. At this point in time, the early indicators for the performance of the ongoing quarter are not yet reliable, decreasing the incentive of engaging in trades speculating on the quarterly performance. For most Swiss corporates, it seems advisable to determine a fixed day marking the start of every blackout period to minimize complications (e.g., the 20th of the last month of a quarter).

As already mentioned, integrating a cooling-off period of one trading day into the blackout periods day is advisable, as it minimizes the potential for allegations of insider trading without significantly reducing the window for trading.

Alternatively, it should be considered to implement a system of trading windows, restricting the trade in a company's securities to times during which it is highly unlikely that there would be insider information.

Furthermore, setting out clearly channelled processes and frequent training sessions on insider trading seem key to ensuring the effectiveness of blackout periods and minimize the risk of potential reputational and other damages for Swiss listed companies.

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