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SIX Exchange Regulation publishes Guideline on its revised Directive on Regular Reporting Obligations

As announced on 6 August 2024, SIX Exchange Regulation overhauled the issuers' regular reporting duties pursuant to the Listing Rules and the Directive on Regular Reporting Obligations, effective as of 1 September 2024. At this occasion, certain reporting obligations that have become obsolete were repealed and other reporting obligations extended where necessary. In connection with these changes, SIX Exchange Regulation has now published a guideline not only providing guidance on its practice in connection with the regular reporting duties, but also reflecting the practice of the judicial bodies of SIX Group. In the following we summarize the most relevant statements in respect of issuers of listed equity securities and bonds.

1 INTRODUCTION

As of 1 September 2024, the SIX Swiss Exchange ("SIX") reporting obligations have been revised and regulated uniformly in the Directive on Regular Reporting Obligations ("DRRO"). The revision is also being used to clarify standards and submission deadlines, to remove reporting obligations that have become obsolete and to extend certain reporting obligations. In connection

therewith, SIX Exchange Regulation ("SER") has issued a new guideline on the revised DRRO ("Guideline").

The Guideline provides details on the DRRO for issuers with primary or secondary listing of equity securities, bonds, conversion rights, derivatives, collective investment schemes, exchange traded products and sponsored investment funds on SIX with regard to the issuer's regular reporting obligations as

defined in art. 55 of the Listing Rules as well as in other provisions of the Listing Rules and other SIX directives. It further provides additional regular reporting obligations for issuers of Global Depositary Receipts (or GDRs), which will not be discussed.

The regular reporting obligations aim to ensure that certain information on the issuer is disclosed on a timely basis to market participants. In addition, the reporting of certain other data helps SER to monitor compliance with securities laws, supporting its enforcement and contributing to a proper functioning of securities trading on SIX.

2 GENERAL

Issuers that have more than one type of securities listed on SIX must fulfill all regular reporting obligations in connection with their various types of securities. Hence, if an issuer has shares and bonds listed on SIX, it must comply with both sets of reporting obligations, in which case some of the regular reporting obligations overlap. In such event, only one notification must be submitted, which needs to mention all securities concerned.

Stating the obvious and as this is the case for the duties related to ad hoc publicity, the Guideline emphasizes that issuers must comply with the regular reporting duties and are ultimately responsible for the transmission of reportable facts to SER. While issuers are permitted to delegate the reporting task to third parties, they remain in any case responsible to SER for compliance with the relevant provisions (see art. 8 DRRO).

Accordingly, each issuer is obliged to familiarize itself with the applicable rules and to structure its internal organization in such a way that it can comply with its reporting duties (along with the other listing obligations) at all times. Issuers who fail to do so may be found organizationally negligent. In particular, a lack of resources, personnel changes or inexperience of responsible individuals will not be accepted cannot justify

violations of the regular reporting obligations and will not be accepted by SER.

Furthermore, issuers must comply with such provisions proactively and independently. Receiving a reminder from SER already indicates a breach of the regular reporting obligations and shall not be understood as a "friendly reminder" to fulfill the said obligations.

Importantly, the submission of the reportable facts in accordance with the DRRO to SER does not replace their potentially required publication (including transmission) in accordance with the rules on ad hoc publicity.

3 DEADLINE EXTENSIONS

If, due to exceptional circumstances, certain regular reporting obligations can temporarily not be fulfilled, a written application for an exemption from disclosure obligations in accordance with art. 7 of the Listing Rules must be submitted to SER in advance and in good time and stating sound reasons. SER is responsible for assessing requested extensions of less than three months (other than in connection with a delisting); longer extensions are within the responsibility of the Issuers Committee. One exception thereto is SER's practice of extending deadlines for issuers to publish annual and interim reports (temporary exemption from disclosure obligations). In line with the existing practice, SER may grant a one-time extension of one month for the publication of annual or interim reports of the issuer concerned if there is a valid justification. Further deadline extensions require an application to the Issuers Committee.

4 FORM OF TRANSMISSION

The Guideline does not reveal any news regarding the form of transmission: Issuers with primary listed equity securities must use the electronic reporting tool "Connexor Reporting" for the transmission of reportable facts. Should Connexor Reporting be unavailable, online forms are available for

reports that are published in the form of an official notice. Simultaneously with the Guideline, SER updated its "Connexor Reporting Manual" for some practical information regarding its use.

In most cases, issuers other than issuers with primary listed equity securities will continue to submit the reports electronically through email rather than using Connexor Reporting.

5 CONFIDENTIALITY OF SUBMISSIONS

Matters to be reported that are still to be treated as confidential at the time of transmission to SER or whose publication is to be postponed must be clearly and unambiguously marked accordingly in the relevant report ("Confidential", "Publication only after consultation" or similar). The date and time from which the temporarily confidential information may be disclosed to the market must be stated. Without such indication, SER cannot guarantee that the message will be treated confidentially.

6 HIGHLIGHTED GUIDANCE ON MAIN REPORTABLE FACTS

6.1 Change of Contact Person(s)

If the chair of the board of directors resigns but remains in office until the election of a new chair by the general meeting, the change can be announced only after the election by the general meeting. However, if there is a vacancy between the resignation of the previous chair and the election of the new chair, the resignation must be reported immediately. To be able to submit the notification without a successor in Connexor Reporting, the term "vacant" or similar must be entered in the fields regarding the successor. In addition, SER must be notified a second time once the successor takes office. The same applies to the change of other notifiable persons, including the CEO, CFO and Head of Investor Relations.

With respect to the contact person(s) responsible for ad hoc publicity and regular

reporting obligations, issuers must ensure that such roles are always assigned to at least one person to provide SER with a contact to reach out to in case of questions or problems. In order to ensure that SER can contact issuers in such circumstances without delay, contact persons for ad hoc publicity and regular reporting obligations must provide SER with their mobile phone number.

The Guideline also reminds issuers that the publication of an ad hoc announcement pursuant to art. 53 Listing Rules regarding the change of a contact person (in particular the chair of the board of directors, the CEO or the CFO) does not replace the corresponding regular reporting obligation in accordance with the DRRO.

6.2 Publication Dates and Corporate Calendar

The publication date of the annual and interim reports should be explicitly stated in the corporate calendar at least 6 months in advance. If the definitive date has not yet been determined at this time, either the calendar week should be indicated, or a provisional date should be listed in the calendar with a corresponding note. As soon as the dates are fixed, the calendar must be adjusted accordingly. The disclosure of the publication date of the annual report in the corporate calendar only about three months before its publication constitutes a violation of the Listing Rules.

If the announcement of the financial figures and the publication of the annual or interim report take place on the same day, the publication of the report must be explicitly mentioned in the corporate calendar. Stating the date of publication of the financial figures does not replace stating the date of publication of the annual or interim report.

6.3 Publication of Financial Statements

Issuers are obliged to publish an annual report. This comprises the audited annual financial statements in accordance with the applicable accounting standard and the corresponding report of the auditors (audit opinion). The annual report must be published together with the annual financial statements within four months of the balance sheet date and submitted to SER no later than the date of publication. Issuers domiciled in Switzerland must also hold their annual general meeting no later than six months after the end of the financial year. For the documents to be made available to shareholders on time, SIX deduces that the annual report must be available around five months after the end of the financial year. As mentioned under 3 above, SER may grant a one-time extension of one month for the publication of the annual report (i.e. until end of May) if there is a valid justification.

The Guideline also highlights that quarterly reports (Q1 and Q3) cannot be submitted via Connexor Reporting and, thus, must be submitted by e-mail.

6.4 General Meetings

In connection with the reporting obligations regarding general meetings, issuers with listed registered shares must report not only the date but also the time (CET) up to which changes can still be made in the share register.

The reporting of the invitation to the general meeting shall be made via Connexor Reporting no later than 20 calendar days before the general meeting, a reporting only 16 days before the general meeting constitutes a violation of the DRRO. If the applicable law provides for a shorter period for a non-Swiss issuer, such shorter period applies to the reporting.

As companies often set the ex-date (trading day on which the shares are traded for the first time without a dividend) and the payment of

the dividend immediately after the general meeting, the deadline for the submission of the general meeting's resolutions is relatively short. A submission later than one trading day after the general meeting constitutes a violation of the DRRO.

6.5 Reporting of Dividends

Due to technical reasons, the ex-date for dividend reporting (meaning the trading day on which the price of the equity security is adjusted downward at the start of trading to factor in payment of the dividends) can only fall on the second trading day after the general meeting. In line with the common practice in Europe, the procedure for the settlement of stock exchange transactions is set so that the record date is one day after the ex-date. The payment date of the dividend is, however, at the discretion of the issuer. Again for technical reasons, Connexor Reporting is validated in such a way that the payment date can fall on the second day after the ex-date at the earliest.

The timely reporting of the ex-date is essential to ensure a smooth process and an orderly trading. Therefore, SER deems it one of the most important regular reporting obligations for stock exchange operations. Without timely fulfillment of this reporting obligation, trading in the securities concerned cannot be maintained, as the price of the securities concerned will not be adjusted downwards by the amount of the distribution when trading opens.

6.6 Amendments of the Capital Band and the Conditional Capital

If the general meeting decides to amend or extend the capital band, these modifications must be treated as the introduction of a new capital band and reported via Connexor Reporting.

If existing conditional capital is increased or deleted, only the new shares effectively created or the shares to be deleted must be reported.

6.7 Notification of Conditional Capital

The notification obligation for conditional capital relates only to the conditional capital formally listed on SIX. If only part of the conditional capital is formally listed, the unlisted conditional capital must not be included in the notification. To list the conditional capital, a formal application must be submitted to SER via a recognized representative.

If the issuer knows that no options or conversion rights will be exercised for a longer period of time, it can submit a written request to SER for exemption from the monthly notification of conditional capital for a maximum duration of one year. If upon the expiry of the exemption period the conditions for granting an exemption from the monthly notification of conditional capital are still met, a new application can be submitted to SER.

6.8 Information on Securities – Bonds

As part of the overhaul of the DRRO, SER canceled, *inter alia*, the following reporting obligations for bond issuers: (i) weblink to the published annual financial statements, (ii) invitation to and resolutions of bondholders' meetings and (iii) the exercise of conversion rights.

In addition, if a non-price-relevant parameter of bonds is adjusted, the issuer of bonds must submit an official notice immediately upon the occurrence of the event. Corporate actions in the underlying security, symbol changes, changes to the last trading day, changes to the observation day, etc. must also be reported.

6.9 Changes regarding the Audit Firm

A change of the external auditor or a discontinuance of the supervision of the external auditor by a foreign audit oversight authority are notifiable facts. External auditors of issuers not domiciled in Switzerland must either be subject to a foreign audit oversight authority recognized by the Federal Council or

be registered with the Federal Audit Oversight Authority (art. 8 of the Auditor Oversight Act).

7 CONCLUSION

Generally, the guideline on the revised DRRO reveals hardly any real novelty or surprises. However, it can be seen as a further attempt of SER to help issuers comply with their ongoing listing obligations. Similar guidelines and commentaries exist, for example, already with respect to ad hoc obligations and the duty to notify management transactions.

In our view, the Guideline does not only reflect the long-standing practice of SER and the judicial bodies of SIX Group but also provides helpful guidance for issuers in fulfilling their regular reporting obligations. The revisions and the Guideline became effective as of 1 September 2024 and issuers must therefore immediately comply with the rules and train the persons tasked with the reporting obligation within the issuer's organization.

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