Compliance with SIX listing rules on corporate governance: SIX announced focus in relation to its 2017 annual report review

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The ability of investors to assess important information with respect to an issuer is a central part of the newly enacted Swiss Financial Market Infrastructure Act (Art. 36 para. 1 FMIA / "FinfraG"). In its communiqué no. 4/2017 of September 8, 2017, SIX Swiss Exchange now issued further guidance on the periodic reporting on corporate governance statements in annual reports as required under the SIX Directive on Information relating to Corporate Governance (DCG).

Key takeaways:

SIX announced that when evaluating the issuer's annual report relating to the business year 2017 or 2017/2018, it will focus its review on the issuer's compliance with the following:

- **accurate place and use of references in order to disclose corporate governance information;**

- **possibility and accurate way to disclose information on compensation and on permitted other activities of board members by way of reference.**

With restating and clarifying its practice, SIX provides for helpful guidance in connection with the preparation of the issuer's corporate governance report.

Where and how to publish corporate governance information in the annual report

SIX listed companies have to publish information relating to corporate governance in a separate section of the annual report (art. 6 DCG). Such corporate governance report may however refer to other parts of the annual report (including the remuneration report) or other easily accessible sources or sources of supply.

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In this respect SIX clarified, and restated current practice, that such references need to be precise, easy to find and free of charge. Therefore, references to content in other sections in the annual report need to state the exact page number and references to information on a website need to include the full URL or path. If such websites contain dynamic data, the availability of static information must also be ensured for five years (e.g. financial reports need to be available for the last five business years).

For example, if parts of the disclosure required in the annual reports is instead dispatched by mail, this would not meet the required standards.

Disclosures on compensation and permitted other activities of board members

Issuers that are subject to the Ordinance against Excessive Remuneration in Listed Companies Limited by Shares (ERCO / "VegüV") must include disclosures on variable compensation in their corporate governance report. These disclosures must cover the rules in the articles of association on the performance-related remuneration and the allocation of equity securities, convertible rights and options as further set forth in section 5.2 of the annex to the DCG).

In addition, these issuers have to disclose whether their board members are permitted to follow other substantial business activities (e.g. board or executive functions of important Swiss and foreign companies, groups, organisations, institutions and foundations under private and public law).

SIX clarified that the annual report of the issuer does not need to repeat the rules as set forth in the issuer's articles of association. Instead of making comprehensive disclosures in the corporate governance report, issuers may refer to their articles. In line with the above, such reference must precisely cite the relevant provision in the articles and must include a link to the issuer's website where such provisions can be found.

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