

Commentary re Art. 56 of the Listing Rules and the Directive on the Disclosure of Management Transactions (Commentary MT)

Article / Para-graph	LR / DMT	Comments	Note
	LR		

Preliminary remarks

This commentary serves to describe the provisions of Art. 56 of the Listing Rules ([LR](#)) and the Directive on the Disclosure of Management Transactions ([DMT](#)) and is intended to offer a guide to interpretation. The Listing Rules should be interpreted in accordance with the Federal Act on Stock Exchanges and Securities Trading ([SESTA](#)). The DMT should be interpreted in accordance with the SESTA and the LR. 1.

The provisions of the LR and the DMT are referenced by means of the appropriate articles and paragraphs (Art. and para.) and the explications of the commentary by means of notes (N). 2.

Suggested reference format: comment MT N 1 3.

Art. 56
para. 1
LR

The disclosure of management transactions promotes the provision of information to investors, and contributes to the prevention and prosecution of market abuse.

Purpose

The purpose of the disclosure of management transactions is to provide an additional source of information to investors. In addition, the disclosure of management transactions is intended to prevent market abuse (illegal insider trading and price manipulation) and in the event of abuse facilitate prosecution, thereby strengthening the integrity of the market and the confidence of the market participants. 4.

Art. 56
para. 2
LR

An issuer whose equity securities have their primary listing on SIX Swiss Exchange Ltd must ensure that the members of its board of directors and its executive committee report transactions in the issuer's equity securities, or in related financial instruments, to the issuer no later than the second trading day after the reportable transaction has been concluded. Transactions undertaken on a stock exchange must be reported to the issuer no later than the second trading day after they are executed.

Scope

a) Issuers

The provisions concerning disclosure of management transactions apply to all issuers whose equity securities have their primary listing on SIX Swiss Exchange Ltd. 5.

It is immaterial whether only a part of the equity securities (e.g. registered shares) are listed and another part (e.g. bearer shares) are not. Thus, transactions in unlisted securities of the issuer as also have to be reported if at least one category of equity securities is listed. 6.

b) Persons subject to reporting obligations

Usually, in addition to the members of the board of directors and the executive committee, many other persons with management responsibilities have inside information. For reasons of legal security and practicality the reporting obligation applies only to members of the board of directors and the executive committee, which is usually directly subordinate to the board of directors or the CEO. *Any persons who perform such functions even on an interim basis are also subject to the reporting obligation.* 7.

The members of the board of directors and the executive committee within the meaning of Art. 2 DMT are the same as the members of the board of directors and the executive committee with the meaning of the Directive on Information relating to Corporate Governance (Corporate Governance Directive, DCG). (See in particular the [Commentary re DCG](#), Points 3.1 and 4.1). 8.

Former members of the board of directors or the executive committee are not subject to the reporting obligation. Neither are honorary chairmen or honorary members of the board of directors who are not or no longer members of the respective body within the meaning of company law. If the persons subject to reporting obligations continue to perform part of their former functions beyond the date of departure, they remain subject to the reporting obligation. 9.

Persons designated to the board of directors or executive committee are in principle subject to the reporting obligation as soon as they assume their new function. However, if the designated person is already active in his/her future function, this person is subject to the reporting obligation on assuming the corresponding operational functions. 10.

Instruction on and implementation of the reporting obligations

The issuer is obliged to instruct and train the persons subject to reporting obligations appropriately and effectively and to regularly remind them about the obligation to disclose management transactions. 11.

In this connection it is particularly recommended that for the purpose of implementation of Art 56 LR issuers inform persons subject to reporting obligations of their duties in connection with the disclosure of management transactions by means of internal directives, internal regulations or similar documents. 12.

Simply handing out a copy of internal regulations is not enough to ensure adequate information and instruction of a person subject to the reporting obligation: see decision of the Committee of the Admission Board of September 4, 2006 [ZUL/MT/IV/06](#), margin 37 and the decision of the Sanction Commission of March 12, 2009 [SaKo/MT/II/08](#), margin 8. In the course of their personal instruction persons subject to reporting obligations have to be informed both in writing and by word of mouth about their duties in connection with the disclosure of management transactions. 13.

On the contents of the internal regulations, see the decision of the Committee of the Admission Board of September 4, 2006 [ZUL/MT/IV/06](#), margin 23. In this decision the then Committee of the Admission Board criticized that in the case in question the internal regulations did not adequately inform the person subject to the reporting obligation about the details of the person's duties in connection with the disclosure of management transactions. In particular, it was not explained which equity securities and financial instruments could be the subject of a reporting obligation. Furthermore, the regulations did not contain any information about the details that had to be included in a report. 14.

Members of the executive committee and members of the board of directors must be repeatedly reminded of their duties in connection with the disclosure of management transactions, in particular the short reporting deadlines (decision of the Sanction Commission of March 12, 2009 [SaKo/MT/I/08](#), margin 8 and sanction notice of SIX Exchange Regulation of May 19, 2009 [SER-MT I/09](#), margin 40). 15.

The corresponding information can be provided at meetings of the board of directors or the executive committee (see decision of the Sanction Commission of July 3, 2009 [SaKo/MT/I/09](#), margin 9 and decision of the Sanction Commission of September 11, 2009 [SaKo/MT/II/09](#), margin 7). 16.

If an issuer suspects that a person subject to the reporting obligation failed to fulfill the reporting obligation in a specific instance, it must contact this person and direct him or her to make the relevant report. *Cf. N 83 below with respect to the measures in relation to persons subject to the reporting obligation who breach their reporting obligations. ~~Violations of the reporting obligation by a person subject to such obligation may have consequences for the person within the company, for instance under the contract of employment or contract law.~~* 17.

Commencement of the reporting obligation

The reporting obligation arises when the corresponding reportable transaction is concluded or, in the case of stock exchange transactions after execution of the transaction. The person subject to the reporting obligation has to report the transaction to the issuer at the latest on the second trading day after reporting obligation commences. 18.

See Art. 7 DMT or N 122 et seq. 19.

The trading days are calculated according to [trading calendar](#) of SIX Swiss Exchange Ltd. 20.

Example: 21.

Thursday, May 3: Transaction

Monday, May 7: Notification to the issuer

To comply with the deadline it is sufficient for the person subject to the reporting obligation to transmit the information to the issuer before midnight on May 7.

On its website, SIX Exchange Regulation has posted a possible model for a [reporting form](#) that the person subject to the reporting obligation can use to make his/her disclosure to the issuer. The use of this form is voluntary. 22.

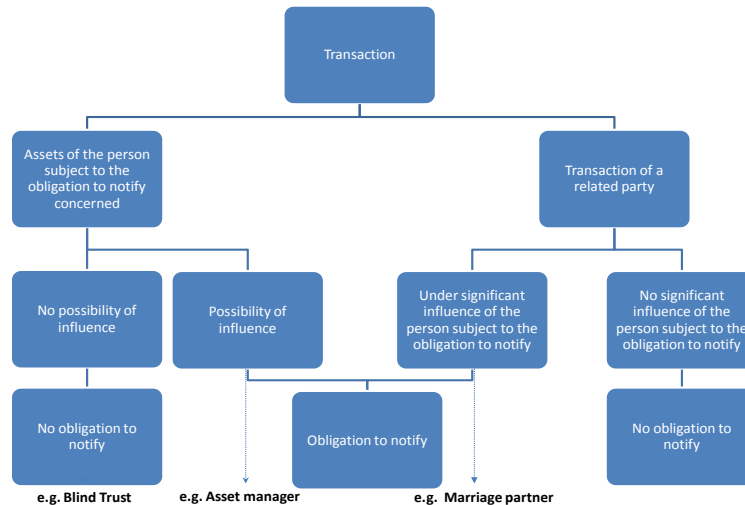
Art. 56
para. 3
LR

Transactions which have a direct or indirect effect on the assets of a person who is subject to the reporting obligation are subject to the reporting obligation. Transactions whose execution the person subject to the reporting obligation is unable to influence are not subject to the reporting obligation.

Transactions carried out by related parties must be reported if such transactions are carried out under the significant influence of a person who is subject to the reporting obligation.

Transactions subject to the reporting obligation

In accordance with Art. 56 para. 3 LR, a transaction is reportable if it has a direct or indirect effect on the assets of the person subject to the reporting obligation or if it is executed by a related party under the significant influence of a person subject to the reporting obligation.



a) Concernment of assets

If a transaction affects the assets of a person subject to the reporting obligation, a duty to report exists in principle (see N 31 et seq.).

The assets of a person subject to the reporting obligation may be indirectly involved if the assets, in particular in connection with concerning joint assets (e.g. communities of heirs, ordinary partnerships).

A transaction may also involve the assets of a person subject to the reporting obligation in the context of matrimonial property law and possibly be subject to the reporting obligation. The following distinctions must be made in connection with matrimonial property law pursuant to the Swiss Civil Code (CC): 26.

The assets of a person subject to the reporting obligation may be indirectly involved in connection with joint ownership of acquired property (Art. 196 et seq. CC) if the spouse makes a transaction via a safekeeping account that is deemed to belong to the acquired property (Art 197 CC) of the spouse of the person subject to the reporting obligation. However, if the safekeeping account through which the spouse of a person subject to the reporting obligation makes a transaction is that spouse's own property (Art. 198 seq. CC), it can be assumed that the person subject to the reporting obligation does not have to report the transaction. 27.

Community of property (Art. 221 et seq. CC) combines the assets and income of the spouses into joint property that belongs undivided to both spouses. Hence, a transaction made by the spouse of a person subject to the reporting obligation and involving assets belonging to the joint property is subject to the reporting obligation. 28.

In the case of separation of property (Art. 247 et seq. CC) it can be assumed that no reporting obligation applies to transactions made by the spouse of a person subject to the reporting obligation that involve the spouse's assets. 29.

Particularly in connection with joint ownership of acquired property and in cases in which the person subject to the reporting obligation is subject to foreign matrimonial property law it will not always be easy for issuers to decide which specific cases are subject to the reporting obligation. Notably in cases such as these, issuers must adequately inform the persons subject to reporting obligations and notify them of the possible applicability of the reporting obligation. Ultimately, however, it is the responsibility of the person subject to the reporting obligation to decide whether or not to make a report. It is not the duty of the issuer to establish in individual cases whether a given transaction concerns, for instance, the acquired property or the spouse's own property. 30.

Exception: No possibility of influencing an investment decision:

In a transaction involving the property of a person subject to the reporting obligation an exception to the reporting obligation may be made if there is no possibility for the person subject to the reporting obligation to influence the investment decision. 31.

To prevent possible abuse and evasion, SIX Exchange Regulation holds that this exception should be applied with extreme reticence. That reflects the standing practice of SIX Exchange Regulation since the implementation of the rules on disclosure of management transactions. 32.

By explicitly making asset management mandates subject to the reporting obligation (see 84 et seq.) only transactions in which even the possibility that a person subject to the reporting obligation can influence an investment or disinvestment decision is excluded justifies an exemption from the reporting obligation. Whether or not use is made of this possibility in individual cases does not affect the reporting obligation. 33.

The blind trust, a concept of Anglo-Saxon law, is an example of customary non-applicability of the reporting obligation due to lack of influence of the person subject to the reporting obligation. In the classical structure of blind trust, the settlor – in the case at issue, the person subject to the reporting obligation – usually has no influence on the trustee's investment decisions. Furthermore, he has no right of information in connection with executed investments and the activities of the trustee. The trustee is completely independent of the settlor. The reporting obligation applies, however, if a person subject to the reporting obligation has the possibility of an influence on the trustee's investment decisions anyway. 34.

b) Transactions of related parties / significant influence

Art. 56, para 2 LR as amended on 12 November 2010 (and entering into force 1 April 2011) lays down that the transactions of related parties carried out under the significant influence of a person subject to the reporting obligation are also subject to the reporting obligation. 35.

In principle, this amendment is not a material change. Already under earlier stipulation (old Art. 4 MTD), transactions of third parties that were significantly motivated by the volition of a person subject to the reporting obligation were also subject to the reporting obligation. 36.

The introduction of the concept of "related party" defines the circle of relevant third parties more precisely. In addition, the scope of application of the earlier stipulation has been restricted inasmuch as the circle of possible third parties has been limited to the effect that they must be "related" to the person subject to the reporting obligation. 37.

A related party can be either a natural person or a legal entity. The relationship of the related party with the person subject to the reporting obligation has to be closer than that of other third parties. The reasons for this may be family, specific living conditions, or the relationship of the person subject to the reporting obligation with a legal entity. Specific examples are provided in Art. 3 para. 2 DMT, N 86 et seq.), which are intended to give the issuer and persons subject to the reporting obligation a better orientation. 38.

The reporting obligation applies on transactions executed by a related party if the decision on the execution was made under significant influence of the person subject to the reporting obligation. 39.

In accordance with the wording of Art. 56 LR, it is not sufficient for the person subject to the reporting obligation to exercise subordinate influence on the investment decision; the influence on the related party's transaction decision has to be significant. 40.

Art. 56 para. 4 LR	The notification to the issuer must contain the following information:	Content of the disclosure	
	1. name of the person subject to the reporting obligation;	On persons subject to the reporting obligation see N 7 et seq.	41.
		In accordance with Art. 56 para. 5 (2) LR, the name of the person subject to the reporting obligation is not disclosed (see N 72). However, these details may be disclosed to the appropriate authorities for the purposes of pursuing insider trading and market abuse.	42.
	2. capacity of the person who is subject to the reporting obligation, as an executive member of the board of directors or member of the executive committee, or as a non-executive member of the board of directors;	Persons who carry out operational management tasks within the company are deemed executive members of the board of directors. Usually, a majority of the members of the board of directors do not carry out operational management tasks within the company (= non-executive members). See also the commentary re DCG , point 3.1.	43.
	3. in the case of reportable transactions carried out by related parties, information on whether the transaction was concluded by a natural person or a legal entity;	On the concept of related parties see N 35 et seq. and 98 et seq.	44.
		The name of the related party is not to be disclosed.	45.
	4. type of transaction;	The following types of transactions subject to the reporting obligation must be distinguished:	46.
		- Purchase	
		- Sale	
		- Grant / Writing	

	If a transaction cannot be adequately described by these concepts, it must be further clarified.	47.
	On the type of transaction also see N 98 et seq.	48.
5. type, total amount and ISIN of the equity securities and financial instruments or, if no ISIN exists, the principal terms of the financial instruments;	In accordance with Art. 56 para. 4 point 5 LR, the relevant International Securities Identification Number (ISIN) must be provided for listed equity and financial instruments. In the case of unlisted conversion and purchase rights and financial instruments the main conditions associated with the security in question must be disclosed.	49.
	Disclosure of ISIN: SIX Exchange Regulation points out that in the case of notification of conversion and purchase rights and financial instruments the ISIN required is not the ISIN of the underlying instrument, i.e. the equity security listed on SIX Swiss Exchange, but the ISIN of the conversion or purchase right or of the financial instrument.	50.
	Disclosure of main conditions: If the conversion or purchase right or the financial instrument is not listed, the notification must contain the main conditions. As a rule, in particular the following details are required:	51.
	<ul style="list-style-type: none"> - Subscription ratio; - Strike price; - Exercise period; - Exercise type; - Underlying (if the company has several types of shares); - Further details or descriptions to present the conversion and share purchase right or financial instrument if necessary for an understanding of the instrument. 	

	Details of the ISIN or main conditions make it possible for market participants to <i>make potential conclusions about possible motives for the conclusion of the transaction. assess transactions involving conversion and purchase rights and financial instruments.</i>	52.
6. total value of transaction;	The total value of the transaction is the price of the single rights multiplied by the amount of purchased, sold or granted rights. For example, A sells through the intermediary of his bank 10,000 shares of issuer X at a price of CHF 14.50. For the settlement of this transaction, the bank charges fees amounting to CHF 3,000 and credits the account of A for CHF 142,000. The total value of the transaction in this case is CHF 145,000 (14.50 x 110,000 = 145,000).	53.
	The total value of the transaction must be indicated in Swiss francs (CHF).	54.
	The applicable exchange rate for the conversion of foreign currencies into CHF is the exchange rate in effect at the time of the transaction.	55.
	In the case of acquisition of shares at a reduce price, the actual (i.e. the reduced) price must be indicated.	56.
	Concerning the total value of transactions based on a pre-trading plan, see N 132 et seq.	57.
	Concerning the total value of exercise-and-sell transactions, see N 101 et seq.	58.
	In particular in the context of employee equity participation schemes it is possible that at the time the reporting obligation arises either only the total amount for the transfer of equities or financial instruments at a later time is known or the number of rights is known, but not the price at which these will be transferred at a later time.	59.

Although in the case in which a person subject to the reporting obligation knows only the total amount paid for the equities or financial instruments received, but not the price of the individual rights, the total value of the transaction can be established without any difficulty, it is difficult to establish the total number of rights. In this case, the total number must set as 1 and the method to be used for the calculation in the future must be explained in the notification and in the publication. 60.

Example 1: 61.

The CFO of an issuer receives a bonus of CHF 800,000; he can choose to receive this bonus either in equities or in cash. On December 1 the CFO decides in favor of equities. The equities are allotted to him at the price at the close of trading on March 1 of the following year.

The notification of December 3 contains the following details:

Total value of the transaction: CHF 800,000

Total number of equity securities: 1

Further transaction details : *The total number of equity securities is calculated on the basis of the price at the close of trading on March 1 (CHF 800,000: price at close of trading March 1)*

In the case in which the number of rights, but not their price is known, the total value and the market price at the time the reporting obligation arose must be disclosed. The method of calculation must be disclosed in the notification and in the publication as well as the formula for the future calculation of the actual total value of the transaction. 62.

Example 2:

Under an employee equity participation scheme, the CFO of an issuer can choose between 100,000 shares in the company or a cash sum. The shares will be allotted at the price at the close of trading on March 1 or the corresponding cash sum will be paid into the CFO's bank account. On February 1 the CFO decides in favor of the shares. On February 1 the share closed at CHF 8.20. 63.

The notification of February 3 contains the following details:

Total value of the transaction: CHF 820,000

Total number of equity securities: 100,000

Further transaction details : *The calculation of the total value of the transaction is based on the price at the close of trading on February 1. The equities are deposited in the custody account of the person subject to the reporting obligation on March 1 at the closing price on March 1 (total value = 100,000 x closing price on March 1)*

Concerning the total value of a transaction on the exercise of cash settled financial instruments involving a net cash payment see N 121 et seq. 64.

7. date of the transaction that is subject to the reporting obligation, or in the case of stock exchange trades, the date of execution; The reporting obligation for the person subject to the reporting obligation arises at the time the corresponding binding transaction is concluded (see N 122 et seq.). 65.

In the case of stock exchange transactions, the reporting obligation arises at the time the transaction is executed (see N 129). 66.

	8. date of the notification to the issuer from the person who is subject to the reporting obligation.	This information is not published (see N 72).	67.
Art. 56 para. 5 LR	The issuer must report the information listed under para. 4 to SIX Exchange Regulation within three trading days of receiving the notification itself. With the exception of para. 4 point 1 and point 8, this information will be published.	The issuer must publish the information according to Art. 56 para. 4 within three further trading days, calculated from receipt of the notification from the person subject to the reporting obligation, via the web-based reporting platform of SIX Exchange Regulation.	68.
		The trading days are calculated according to the trading calendar of SIX Swiss Exchange Ltd.	69.
		Example:	70.
		Thursday, May 3: Transaction	
		Monday, May 7: Notification to the issuer	
		Thursday, May 10: Issuer notifies SIX Exchange Regulation (publication follows immediately)	
		To comply with the deadline it is sufficient for the issuer to disclose the information via the web-based reporting platform before midnight on May 10.	
		Even if the person subject to the reporting obligation had not reported the transaction to the issuer within the deadline, the issuer is still obliged to disclose the notification transmitted to him within three trading days (see decision of the Committee of the Admission Board of May 11, 2006 ZUL-MT I/06)	71.
		The name of the person subject to the reporting obligation (Art. 56 para. 4 point 1) and the date of the notification to the issuer (Art. 56 para. 4 point 8) are not published.	72.

-
- The issuer must make the necessary arrangements so that it can at all times comply with the obligation to disclose management transactions. In particular the short deadlines in connection with the reporting and publication deadlines assume the appropriate arrangements (decision of the Committee of the Admission Board of July 2, 2006 [ZUL-MT III/06](#), margin 39). 73.
- In the case of absences on account of business, illness or holiday a substitution has to be organized in order to fulfill the obligations to disclose (decision of the Committee of the Admission Board of July 2, 2006 [ZUL-MT III/06](#), margin 39;~~and~~ decision of the Sanction Commission of March 12, 2009 [SaKo/MT/I/08](#), margin 8; *decision of SIX Exchange Regulation dated February 4, 2012 [SER-MT I/12](#), margin no. 32*). 74.
- The correct handling of the [web-based reporting platform](#) of SIX Exchange Regulation by the issuer's authorized employees is a prerequisite for a functioning reporting system. (Decision of the Sanction Commission of March 12, 2009 [SaKo/MT/I/08](#), margin 8). 75.
- The issuer is responsible for adequately training the employees in question and giving them clear instructions (decision of Committee of the Admission Board of December 18, 2006 [ZUL-MT VI/06](#), margin 22, decision of the Committee of the Admission Board of January 29, 2007 [ZUL/MT/VII/06](#), margin 35 and sanction notice of SIX Exchange Regulation of May 19, 2009 [SER-MT I/09](#), margin 42). 76.
- The decision of the Committee of the Admission Board of May 11, 2006 [ZUL-MT I/06](#), margin 35 et seq. then states that knowledge is attributed in principle to a legal entity (i.e. the issuer) to the extent that the persons involved in a legal entity must have or have had knowledge of the specific transaction (*cf. also in this regard the decision of SIX Exchange Regulation dated November 1, 2011 [SER-MT I/11](#)*). Accordingly, issuers must make internal arrangements to ensure that notifications received from persons subject to the reporting obligation are disseminated internally in good time for them to be published on the electronic reporting platform within the prescribed deadlines. 77.

Art. 56 SIX Exchange Regulation maintains see N 147 et seq.
para. 6 a database of the notifications that it
LR has received. The notifications that
 are published can be accessed by
 the public for a period of three
 years.

78.

DMT

I. General provisions

Art. 1 DMT:	The duty to disclose management transactions applies to all issuers whose equity securities have their primary listing on SIX Swiss Exchange Ltd.	see N 5.	79.
----------------	---	----------	-----

II. Disclosure to the issuer by the persons subject to reporting obligations

Persons subject to reporting obligations

Art. 2 para. 1 DMT	In keeping with Art. 56 LR, the members of the board of directors and of the executive committee of an issuer are obliged to report management transactions.	see N 7 et seq.	80.
Art. 2 para. 2 DMT	The issuer is responsible for holding the persons subject to reporting obligations to their reporting obligation and, as the case may be , for taking appropriate action against them <i>should they fail to fulfil their obligations.</i>	If an issuer suspects that a person subject to the reporting obligation failed to fulfill the reporting obligation in a specific instance, it must contact this person and take appropriate action to hold the person to his/her reporting obligation.	81.
		If a person subject to the reporting obligation breaches his/her reporting obligation, the issuer must take action against the person subject to the reporting obligation, at least in cases of recurrence.	82.

As a rule, the manner in which the issuer takes action against any non-compliant persons is at its discretion. This could involve several measures ranging from a simple, written reprimand to payment of a sum of money or consequences in relation to the employment agreement or mandate of the person. The measures can also include the requirement to pay damages to the issuer. 83.

~~For instance, the duty to comply with the provisions of disclosure of management transactions can be included in the duties of the persons subject to the reporting obligation under the employment agreement or the mandate agreement, with the corresponding consequences in the event of violation. Provision may be made for sanctions such as, for example, payment of the costs of possible sanction procedures or the payment of a sum of money in the case of violation.~~

Principle of the reporting obligation

- | | | | |
|--------------------------|--|--|-----|
| Art. 3
para. 1
DMT | An individual is obliged to report a transaction if it has a direct or indirect effect on his/her assets. Transactions whose execution the person subject to the reporting obligation has no possibility to influence are not subject to the reporting obligation. In particular, transactions executed within the framework of an asset management agreement are subject to the reporting obligation. | Transactions executed within the framework of an asset management agreement are in principle subject to the reporting obligation. See also N 23 et seq. | 84. |
| | | The relevant question in connection with the disclosure of management transactions is whether or not the person subject to the reporting obligation has the legal or factual possibility to exert influence on the asset manager. It must be assumed that factually there is always the possibility of exerting influence. If in special cases this possibility is excluded, the reporting obligation does not apply (see in particular the statements on the "blind trust" in N 34). However, under Swiss law such constructs are hardly conceivable. | 85. |
| Art. 3
para. 2
DMT | Furthermore, transactions executed by related parties (legal entities and natural persons) or partnerships, or institutions acting on a fiduciary basis, must be reported if such transactions are carried out under the significant influence of a person subject to the | see N 35 et seq. | 86. |
| | | A management position in the sense of this provision is a position held by a person who is member of an executive committee of a legal entity (e.g. a member of the board of directors, member of the executive committee, member of the foundation board, CEO, etc.). | 87. |

reporting obligation. Related parties may include, for example:

1. domestic partners;
2. individual living in the same household as the person subject to the reporting obligation;

A person who can determine the decisions of a company independent of third parties controls the company. The applicable criterion in this case is not legal, but actual control. Thus, control of a joint stock company may already be exercised by less than 50% of the voting rights. 88.

Persons who hold a position in relation to a company or organization (e.g. a trust) that entitles them to claim monetary benefits are defined as beneficiaries of this company or this institution. 89.

3. legal entities, partnerships, and fiduciary institutions, if the person subject to the reporting obligation:

- a. holds a management position within that entity,
- b. controls the company directly or indirectly,
- c. is a beneficiary of this company or institution.

Examples:

- Joint stock company A (A Ltd) buys equity securities of primary-listed issuer X. A person working for issuer X who is subject to the reporting obligation holds 60% of A Ltd.

The person subject to the reporting obligation must report the transaction executed by A Ltd., since he or she has financial control of A Ltd.

- Joint stock company A (A Ltd) buys equity securities of primary-listed issuer X. A person working for issuer X who is subject to the reporting obligation holds 40% of A Ltd.

The person subject to the reporting obligation may possibly have to report the transaction of A Ltd. It must be established whether or not he or she factually controls A Ltd.

- A person subject to the reporting obligation is a member of the foundation board of the pension fund of issuer X. The investment advisory committee decides to sell shares of the issuer to the value of CHF 1,000,000.

If the decision of the investment advisory committee is based on the significant influence of the person subject to the reporting obligation, the person subject to the reporting obligation has to notify the transaction.

Transactions between any person subject to reporting obligation and individuals or legal entities related to them are not subject to the reporting obligation.

90.

Reportable transactions

Art. 4 para. 1 DMT	The reporting obligation covers:	For the reporting obligation of transactions involving preferential subscription rights: see N 107 et seq.	91.
	1. equities or similar shares in an issuer;		
	2. conversion, purchase or sale rights that provide for or permit actual delivery with rights as per point 1, or conversion, purchase or sale rights from the issuer;	The reporting obligation applies, for example, also to phantom stocks, American Depositary Receipts (ADR), etc.	92.
	3. financial instruments that provide for or permit a cash settlement and other contracts for difference whose performance depends on rights under points 1 or 2.	The reporting obligation for financial instruments applies regardless of whether they provide for or permit cash settlement or actual delivery.	93.
		Bonds unrelated to shares (e.g. zero bonds or medium-term notes) are not subject to the reporting obligation.	94.

If a person subject to the reporting obligation grants a preemptive right to a third party for shares (or financial instruments pursuant to Art. 4 para. 1 DMT), or if a person subject to the reporting obligation is granted a preemptive right for shares (or financial instruments) by a third party, this need not be reported as a management transaction. However, there is a reporting obligation if the preemptive right is exercised. In this regard, it should be noted that, where applicable, preemptive rights for shares may be required to be reported as part of the disclosure of shareholdings pursuant to Art. 20 SESTA (cf. 2010 Annual Report of the Disclosure Office of SIX Swiss Exchange, pp. 16 and 26).

Art. 4 para. 2 DMT Financial instruments under para. 1 point 3, for which less than one third of performance is dependent upon rights under para. 1 points 1 and 2, are not subject to the reporting obligation. In principle, the reporting obligation does not apply to fund units, index products or baskets, if the value of these instruments is not materially dependent on the value of equity securities or other rights to purchase or sell equity securities of the issuer. There is no material dependency on performance in this sense if less than one third of performance is dependent upon the performance of rights as per Art. 4 para. 1 points 1 and 2. 95.

The indicated financial instruments include units in collective investment schemes and Exchange Traded Funds (ETF) or basket products. 96.

Art. 4 para. 3 DMT An issuer's transactions in its own equity securities or related financial instruments are not subject to the reporting obligation. The issuer is not required to report own transactions, even in cases where one or more persons subject to the reporting obligation made the relevant decision for the issuer. 97.

Types of reportable transaction

Art. 5 para. 1 DMT The reporting obligation covers the acquisition, disposal and grant (writing) of rights in the sense of Art. 4. Art. 5 para. 1 DMT establishes that the reporting obligation applies to both the purchase and the sale of rights in the sense of Art. 4 DMT (see N 91 et seq.). Furthermore, the reporting obligation applies to the grant of rights in the sense of Art. 4 para. 1 points 2 and 3. 98.

Concerning the allocation of rights in connection with an employee equity participation scheme see N 114 et seq. Concerning the allocation of subscription rights, see N 108. 99.

The exercise of the rights under Art. 4 para. 1 points 2 and 3 (see N 91 et seq.) do not in principle have to be reported. However, when rights that were not subject to the obligation to report at the time of purchase or allocation on account of the provision of Art. 6 DMT are exercised, they are subject to the reporting obligation (see N 118). 100.

An exercise & sell transaction (exersale) is the exercise of purchase rights (generally call options) immediately followed by the sale of the equity securities resulting from such exercise. In principle, this are two transactions: an exercise of purchase rights at the strike price and the sale of the shares acquired through the exercise of purchase rights. 101.

As an easing, SIX Exchange Regulation practice does not require exersales to be reported as two separate transactions (acquisition of shares by exercising purchase rights and disposal of shares), but as a sale of equity securities. It is irrelevant whether the exercise of the purchase rights is subject to the reporting obligation or not pursuant to Art. 6 para. 3 DMT (see N 118). 102.

Exersales must be labeled as such. In the "*Further transaction details*" field it must be noted that the transaction is an "exersale." ~~Furthermore, the strike price of the financial instrument (e.g. the option) must be provided.~~ 103.

The difference between the strike price of the purchase right and the actual sale price of the equity security is decisive in calculating the total value of an exersale transaction. This difference is then multiplied by the number of rights sold. 104.

Example:

105.

The CEO of a company is allotted 100,000 call options in accordance with his/her employment contract.

Strike price of the options: CHF 49.50 apiece.

Price of the underlying asset at the time of execution: CHF 50.

The CEO exercises the options and at the same time sells the 100,000 shares derived therefrom for CHF 50 apiece.

Total value of the transaction: $(CHF\ 50 - CHF\ 49.50 = CHF\ 0.50) \times 100,000$ shares = CHF 50,000.

The acquisition of put options must be treated as a purchase of options (and not as a disposal of shares). The legal, not the financial, point of view is relevant. Hence, the acquisition of a put option constitutes the purchase of a right to sell and not already the sale of an underlying asset (e.g. a share). The ISIN (International Securities Identification Number), which must be included in the notification, or the principal terms of the option (see N 49 et seq.) make it clear that the reported acquisition is the purchase of a put option (and not the sale of an underlying). 106.

The purchase and disposal of preferential subscription rights based on corporation law (e.g. preferential subscription rights in connection with capital increases [Art. 652b Swiss Code of Obligations/CO] and preferential subscription rights in connection with the creation of participation capital [Art. 656g CO]) or on a contractual basis are subject to the reporting obligation. 107.

The original allocation of preferential subscription rights as per Art. 652b CO in the amount of the existing participation rate is, however, not the result of a new investment decision and hence is not subject to the reporting obligation. 108.

Similarly, the non-exercise of the allocated preferential subscription rights is not subject to the reporting obligation. 109.

The exercise of ~~an~~ *originally* allocated preferential subscription rights is an independent investment decision that may send a signal to the market and is subject to the reporting obligation. *The exercise of purchased preferential subscription rights, however, is not subject to the reporting obligation.* 110.

The writer is not required to report the exercise of the rights by the purchaser. Although the exercise of a call option results in the disposal of shares by the writer, this disposal takes place without a conscious decision on the part of the writer. 111.

Example: 112.

The person subject to the reporting obligation (CEO of the issuer X) writes 10 call options. Each call option confers the right to purchase one share of issuer X. These options are acquired by a third party for CHF 1 apiece.

The person subject to the reporting obligation must report the transaction as a management transaction within two trading days of the rights being written. The total value of transaction is CHF 10.

The third party subsequently exercises the call options. The person subject to the reporting obligation must deliver ten shares of issuer X to the third party.

There is no reporting obligation on the part of person subject to the reporting obligation in connection with the delivery of the ten shares of issuer X.

Art. 5 Pledges, usufruct, securities lending 113.
para. 2 inheritances, gifts and disputes
DMT involving marital property are not
subject to the reporting obligation. ~~In contrast to transactions subject to the reporting obligation, in the cases of Art. 5
para. 2 DMT the person subject to the reporting obligation does not, however,
actively decide to carry out a specific transaction at a specific moment. Such
transactions do not send~~ Accordingly, ~~no any~~ signals ~~are sent~~ to the market.
Although *they are* not mentioned, legacies (Art. 484 Swiss Civil Code/CC) *and*
endowments for the purpose of establishing foundations under Swiss law are ~~also~~
~~covered~~ *not subject to the reporting obligation.*

**No reporting obligation for
compensatory transactions**

Art. 6 No reporting obligation exists if the 114.
para. 1 given transaction takes place on the
DMT basis of an employment contract or is
part of a compensation scheme and the
person subject to the reporting
obligation cannot cause such
transaction to take place through
his/her conscious decision.

In accordance with Art. 6 para. 1, the following two conditions must be fulfilled for
a transaction not to be subject to the reporting obligation:

- the transaction is based on an employment contract or is part of a
compensation scheme
- and
- the person subject to the reporting obligation cannot cause the transaction to
take place through his/her conscious decision.

A transaction is based on an employment contract if the transaction is regulated in 115.
the employment contract. Thus, e.g. the annual allocation of a final or
determinable number of shares or purchase rights may be defined in the
employment contract.

		Hence, a transaction is subject to the reporting obligation if the person subject to the reporting obligation can cause this transaction to take place through his/her conscious decision, for example, if the person subject to the reporting obligation is able to choose how the remuneration takes place, for instance:	116.
		<ul style="list-style-type: none"> - whether in cash or shares; - whether in shares or options; - whether in options of program A or options of program B. 	
Art. 6 para. 2 DMT	Specifically, this means that the final allocation of rights in accordance with Art. 4 para. 1 is not subject to the reporting obligation.	This provision gives more specific expression to the principle set out in Art. 6 para. 1 DMT (see N 114).	117.
Art. 6 para. 3 DMT	The subsequent exercise or sale of such rights is subject to the reporting obligation, however.	The exercise of rights in the sense of Art. 4 para. 1 points 2 and 3, which were acquired on the basis of an employment contract or as part of a compensation scheme and whose acquisition was not the result of a conscious decision on the part of the person subject to the reporting obligation, is subject to the reporting obligation.	118.
		If, e.g., a call option is exercised and this transaction is subject to the reporting obligation (see N 118), the exercise of the option must be reported as a "purchase of shares." In the "Further transaction details" field it must be noted that this purchase is the result of exercising a call option. In addition, the ISIN and the main conditions must be provided (see N 49).	119.

Example:

120.

On the basis of his employment contract, the CEO of issuer X, a person subject to the reporting obligation, has to take 50% of his bonus, an amount totaling CHF 1,000,000, in the form of call options of CHF 1 apiece. Each option entitles the holder to acquire one X share. Regarding the other 50% of the bonus, the CEO can choose to take it in call options or cash. He decides to take it in cash.

The person subject to the reporting obligation is not required to report the purchase of the 500,000 call options.

~~Had the person subject to the reporting obligation decided to take the other 50% of the bonus in call options too, this purchase of 500,000 call options would be subject to the reporting obligation. From these 500,000 call options, whose purchase is not required to be reported as a management transaction by the person subject to the reporting obligation, ~~Six months later~~ the person subject to the reporting obligation exercises 200,000 call options *six months later* and thereby acquires 200,000 shares of X.~~

The person subject to the reporting obligation must report the purchase of these 200,000 shares.

Alternative:

If the person subject to the reporting obligation were to take the remaining 50% of the bonus in call options as well, this acquisition of 500,000 call options would need to be reported.

The exercise of these 500,000 options, whose purchase was required to be reported, is not required to be reported as a management transaction.

In the case of an exercise of financial instruments with cash settlement (on the reporting obligation for the exercise of financial instruments see N 118) the total value of the transaction is, as in the case of exersales (see N 104), the difference between the strike price of the financial instrument and the share price at the time of the exercise. Here, again, it must be stated that the report is being made as a result of the exercise of a financial instrument with cash settlement. In addition, the ISIN and the main conditions of the instrument must also be reported and published. 121.

Commencement of the reporting obligation

Art. 7 para. 1 DMT	<p>The reporting obligation arises when the corresponding reportable transaction is concluded, regardless of whether or not it has conditions attached. In the case of transactions settled via an exchange, the reporting obligation arises when the transaction is executed.</p>	<p>The reporting obligation arises with the conclusion of the contract ("binding transaction"), not with its implementation ("disposition"). The delivery and the time when the relevant security is credited to the safekeeping account of the person subject to the reporting obligation are irrelevant in this regard.</p>	122.
		<p>The reporting obligation for conditional transactions arises not with the fulfillment of the condition, but at the time the contract relating to the conditional transaction is concluded.</p>	123.
		<p>Example:</p> <p>A and B, two persons subject to the reporting obligation, conclude a contract regarding the purchase/sale of shares of issuer X in the amount of CHF 110,000 on September 24. The execution of the transaction is subject to the condition that B, who is subject to the reporting obligation, works for issuer X on December 31 in the context of an unterminated employment relationship.</p> <p>The reporting obligation arises on September 24, regardless of whether the condition is fulfilled or not.</p> <p>No report must be made once the condition has been / not been met, since at the time of the (conditional) binding transaction the signal has already been sent to the market. Whether or not the disposition takes place is irrelevant to the recipient of the information in the context of the disclosure of management transactions.</p> <p>If the person subject to the reporting obligation wishes to emphasize the conditional nature of the transaction, the condition may be explained in the "Further transaction details" field.</p>	124.

The reason for the connection with the binding transaction is that the supply of information to investors only makes sense if the market is notified of the transaction at the time of the binding transaction, because the person subject to the reporting obligation takes a decision to invest or divest at this time at the latest. If the reporting obligation were linked to the disposition, the market would not have the opportunity to draw timely conclusions regarding the future development of the price of an equity security on the basis of a transaction carried out by a person subject to the reporting obligation. 125.

The connection with the binding transaction corresponds with the relevant provision in connection with the disclosure of shareholdings pursuant to Art. 20 [SESTA](#) and Art. 11 para. 1 [SESTO-FINMA](#). 126.

If any persons subject to the reporting obligation offer equity securities to the offeror as part of a takeover process, the reporting obligation occurs following expiration of the grace period. The deadline of two trading days within which to report the transaction to the issuer shall commence to run at this time (Art. 56 para. 2 LR). This is based on the corresponding provisions relating to the disclosure of shareholdings pursuant to Art. 20 SESTA (Art. 19 SESTO-FINMA). 127.

In the case of the allocation of rights (cf. N 108 and 114 et seq.), the day of the conscious decision of the person subject to the reporting obligation is decisive for the acquisition of corresponding rights. The reporting deadline is calculated from the day on which the senior management member or the member of the board of directors decides to take all or part of his/her bonus in shares or financial instruments.

If the person subject to the reporting obligation makes his/her decision in favor of rights or cash at a time before the number of allocated rights is determined or determinable (e.g. before the size of the bonus is known), no agreement comes into effect with the decision of the person subject to the reporting obligation. Thus, this date is immaterial for the disclosure deadline. In this case, the transaction date is the earliest possible time at which the number of rights or the total value of the transaction are determinable. Usually, this is when the board of directors makes a decision about the size of the bonus. 128.

In the case transactions settled via an exchange the reporting obligation arises with the execution of the order, the so-called matching. Reporting cannot be postponed until clearing and settlement (processes used to implement and manage deliveries and transfers in connection with securities transactions) are complete. 129.

It is advisable for a person subject to the reporting obligation to contact his/her bank ahead of time in order to ensure that he or she will be notified in good time of the conclusion of stock market transactions so that a report can be sent to the issuer in a timely manner. 130.

See sanction notice of SIX Exchange Regulation of May 19, 2009 [SER-MT I/09](#), p. 7. 131.

Pre-trading Plans are programmes in which the person who is subject to the reporting obligation agrees to transactions on dates that have been fixed in advance or during certain periods that have been fixed in advance. Each of the individual, subsequent transactions takes place without the person subject to the reporting obligation being able to exert any further influence on them. 132.

Transactions provided for under a pre-trading plan may be disclosed using a single report. Alternatively, there is also the option of reporting each individual transaction separately. If the individual transactions are reported separately, the deadline of two trading days pursuant to Art. 56 para. 2 LR shall commence on execution of the transaction (for transactions that are settled via the exchange) or conclusion of the respective reportable transaction. 133.

If all transactions to be executed under a pre-trading plan are indicated in one report, the deadline of two trading days pursuant to Art. 56 para. 2 LR shall commence on conclusion of the pre-trading plan. The individual transactions executed as part of the pre-trading plan are no longer required to be reported as a consequence. In such cases, the concluding of the Pre-trading Plan is the binding transaction and thus is subject to the reporting obligation. By contrast, the individual, subsequent transactions executed on the basis of the plan are not subject to the reporting obligation. The reporting deadline is calculated from the day on which the plan was concluded. In this case, notification includes the total value of all transactions provided for under the plan.

For example, if a sales plan has a minimum price for a sale, the total number of the rights to be sold must be multiplied by this price and the result reported as the total value of the transaction. If in an exceptional case the total value cannot be calculated, it can be reported as CHF 1 (on the calculation of the total value of a transaction, see also N 53 et seq.). In any case, the key data of the program (e.g. duration, transaction price bands etc.) must be reported and published. 134.

If after signing the Pre-trading Plan, the person subject to the reporting obligation nevertheless is able to influence or exercises influence on the following transactions, these transactions must be reported individually (see N 132). In such a case the Pre-trading Plan is considered as being cancelled (see N 136). 135.

If exceptionally a pre-trading plan is modified or cancelled, the person subject to the reporting obligation must notify this to the company. 136.

- If the terms of a notified Pre-trading Plan are modified, a new notification with the actual terms must be reached. This notification must refer to the previous published notification of the modified plan.
- The notification of the cancellation of a Pre-trading Plan, must indicate the volume of transactions already carried out until the cancellation of the plan and the statement must explain that the disclosed Pre-trading Plan reported on [date] for [volume] was cancelled.

Example: 137.

On August 2 the CEO of a company concludes a Pre-trading Plan for the sale of 100,000 shares in the next six months. The limit price for selling the shares is CHF 10.

The person subject to the reporting obligation reports a sale of equity securities. The reporting deadline runs from August 2. The total number of equity securities is 100,000; the total value must be reported as CHF 1,000,000 (number of equity securities x minimum selling price). Date of the binding transaction is August 2. The " Further transaction details " field must note that it is a Pre-trading Plan over six months starting on August 2 and that the minimum selling price has been set at CHF 10.

Art. 7 para. 2 DMT Only one notification is required where several transactions of the same type are made on the same day. If more than one transaction is carried out on a single day by a person subject to the reporting obligation, it is permissible to aggregate each the number of purchased, sold or granted rights. Only transactions of the same type as defined in Art. 5 DMT (see N 98) on rights of the same type as defined in Art. 4 para. 1 DMT (see N 91) carried out by the same person subject to the reporting obligation may benefit from this relaxation. 138.

It is not permissible, however, to offset purchases and sales. In other words, the gross presentation method or netting is prohibited. 139.

Examples:

140.

On Monday, September 24 person A, who is subject to the reporting obligation, buys 50 registered shares of issuer X in the total amount of CHF 50,000. On the same day, his wife, B, acting under the significant influence of her husband (see N 35 et seq. and 87 et seq.) also buys 50 registered shares in the total amount of CHF 51,000.

By Wednesday, September 26 at the latest A will notify the issuer of the purchase of 100 registered shares in the total amount of CHF 101,000 on September 24.

On Monday, September 24 person A, who is subject to the reporting obligation, buys 50 registered shares of the issuer; the transaction is executed on exchange in 3 trades: ten registered shares in the total amount of CHF 9,998 are purchased at 10:02, nine registered shares in the total amount of CHF 9,120 at 14:34, and finally 31 registered shares in the total amount of CHF 31,520 at 15:45.

By Wednesday, September 26 at the latest A must notify the issuer of the purchase of 50 registered shares in the total amount of CHF 50,638 on September 24.

III. Electronic reporting platform

Transmission of notifications via the electronic reporting platform

Art. 8 para. 1 DMT	The issuer passes on the notifications it receives to SIX Exchange Regulation using the electronic reporting platform that is provided (Art. 3 para. 6 LR and Directive Electronic Reporting and Publication Platforms (DERP)).	All notifications must be forwarded to SIX Exchange Regulation exclusively via the web-based reporting platform .	141.
		Publication on the SIX Exchange Regulation website takes place within seconds of the transmission.	142.

		If after transmitting the report to SIX Exchange Regulation the issuer discovers that it was incorrect, upon discovery a corrected report must be filed immediately. Reports already transmitted to SIX Exchange Regulation cannot be deleted. They remain publicly accessible on the website.	143.
		A corrected report must be identified as such.	144.
		If, in exceptional cases, it is for technical reasons not possible to transmit a report to SIX Exchange Regulation, SIX Exchange Regulation must be advised by telephone or email as soon as possible. SIX Exchange Regulation will cooperate with the issuer to find a solution.	145.
		It cannot be ruled out that certain reports must be deemed to be potentially price-sensitive within the meaning of ad hoc publicity (Art. 53 LR and DAH). In these cases the additional regulations on ad hoc publicity must be complied with.	146.
Art. 8 para. 2 DMT	In fulfilling its obligation to report, by submitting a notification the issuer authorises SIX Swiss Exchange to store the information reported in accordance with Art. 56 para. 2 LR in a database for a period of four years, and to make the information indicated in Art. 56 para. 5 LR available to the public by means of a remote access mechanism (SIX Exchange Regulation website) for a period of three years.	All information transmitted to SIX Exchange Regulation via the web-based reporting platform , is stored in an internal SIX Exchange Regulation database for a period of four years.	147.
		Information published on SIX Exchange Regulation website is available to the public for a period of three years pursuant to Art. 56 para. 5 LR and N 78.	148.
		In principle, issuers can access their own submitted reports. Persons subject to the reporting obligation may obtain information from the issuer on any reports that concern them.	149.
Art. 8 para. 3 DMT	SIX Exchange Regulation will handle requests for information searches in the database.	SIX Exchange Regulation is responsible for deciding requests for information searches in the database. In particular, governmental investigation authorities may present SIX Exchange Regulation with orders to disclose certain data.	150.

IV. Sanctions

Art. 9 Violations of the provisions of this In accordance with Art. 60 [LR](#), SIX Exchange Regulation and the Sanction 151.
DMT: Directive may be punished in Commission of SIX Exchange Regulation pursuant to Art. 1.2 para. 2 in
accordance with Art. 60 LR. conjunction with Art. 3.5 [Rules of Procedure](#) (RP) issue the sanctions provided for
in Art. 61 [LR](#).

Pursuant to Art. 2.10 [RP](#), SIX Exchange Regulation may end sanction 152.
proceedings by agreement (settlement).

V. Final provision

Art. 10 This Directive was approved by the
DMT: Swiss Financial Market Supervisory
Authority (FINMA) on 22 November
2010 and enters into force on 1 April
2011. It replaces the Directive on
Disclosure of Management
Transactions of 29 October 2008.