

Communiqué No. 2/2023
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Findings from the review of issuers' publication activities in the area of ad hoc publicity

As part of its enforcement activities, SIX Exchange Regulation AG (**SER**) reviews the publication activities of issuers to ensure compliance with the Listing Rules (**LR**) and the Directive on Ad hoc Publicity (**DAH**). When examining the publication activity, findings were made particularly in the areas of (1) distribution of ad hoc announcements and (2) maintaining the confidentiality of price-sensitive facts.

1 Distribution of ad hoc announcements

In its [Announcement No. 4/2022 of 7 July 2022](#), SER explicitly referred to the correct distribution and modalities for the disclosure of ad hoc announcements via e-mail distribution (so-called push system; Art. 8 DAH).

The Sanctions Commission of SIX Group AG (**SaKo**) recently confirmed the importance of sending ad hoc announcements via push system. The SaKo emphasises that the non-simultaneous distribution of an ad hoc announcement via push system is a sanctionable violation of the principle of equal treatment.

When examining the publication activities of issuers with primary listed equity securities, SER found that sometimes the registration function for the push system fails to work properly, that registered persons are not immediately included in the distribution lists of the push system and that distribution lists are served incompletely.

Issuers must provide a service on their website that allows all interested parties to receive, via e-mail distribution, free and timely notification of ad hoc announcements (push system). Issuers must in particular ensure that:

- i) a corresponding push system exists;
- ii) the link (URL) to the registration form of the push system is communicated to SER and up to date;
- iii) the registration for the push system works flawlessly all the time;
- iv) the registered persons are immediately added to the distribution list of the push system;

- v) ad hoc announcements within the scope of the distribution of Art. 7 et seqq. DAH are sent simultaneously and to all registered persons;
- vi) the content of ad hoc announcements is complete and identical (in all language versions) and that it bears the correct classification (“ad hoc flagging”).

SER recommends issuers to continuously check their push system for correct functionality.

2 Maintaining the confidentiality of price-sensitive facts

Issuers must maintain the confidentiality of price-sensitive facts prior to their timely, proper distribution.

In practice, SER has found that violations have increased noticeably. The confidentiality of price-sensitive facts was breached, for instance, by inadequate organisational and/or technical protective measures. As a result, price-sensitive facts were unintentionally disclosed to the public too early and selectively. It should be noted that storage on a publicly accessible web server, even if the content is not embedded in a navigational structure such as a web page, is considered critical. Without access protection or sufficiently secure encryption of the data, the information is publicly available and can be compromised by third parties.

SER also noted that third parties are increasingly using “web crawlers” to obtain (confidential) information from issuers. Web crawlers are computer programs that independently search the internet for data and analyse websites. For example, web crawlers search company websites for financial figures and, based on known file names and URLs, also pick up purportedly unpublished information in insufficiently protected website environments. As a result of the use of web crawlers, issuers were affected by unintentional data outflows and found their price-sensitive facts in media coverage even before the planned publication date.

In general, the issuer is free to choose the organisational methods and instruments for ensuring confidentiality. Nevertheless, SER recommends that issuers also keep abreast of the latest developments in information security with respect to their internal regulations, processes and measures.

If cyberattacks (e.g. hacking, use of malware, etc.) or other types of data outflows (e.g. web crawlers) cause price-sensitive facts to be published in advance and selectively or not in accordance with stock exchange regulations, culpable issuers might be sanctioned.

Further information on ad hoc publicity, in particular the **Announcement No. 4/2022**, the **DAH Guideline** as well as the relevant regulations, directives, notifications and sanctions, are available on the website of SIX Exchange Regulation AG (**ser-ag.com**).