



Exchange Regulation

SIX Exchange Regulation Guideline re the Directive on Information relating to Corporate Governance Directive dated 1 January 2016 (Guideline DCG)

Fully revised version dated 10 april 2017

SIX Exchange Regulation Guideline re the Corporate Governance Directive (Guideline DCG)		Note (N)
Introduction	The current valid version of the Corporate Governance Directive (DCG) dated 1 January 2016 supersedes the version of the DCG dated 1 September 2014.	1
	The DCG is to be interpreted in conformity with the Swiss Federal Act on Financial Market Infrastructures and Market Conduct Rules for the Securities and Derivatives Market dated 19 June 2015 (Financial Market Infrastructure Act, FMIA) and the Listing Rules (LR). In particular, transparency and the equal treatment of investors as per Art. 1 para. 2 FMIA are to be observed.	2
	This guideline on the DCG (formerly: SIX Exchange Regulation commentary on the Corporate Governance Directive [DCG Commentary]) includes explanations of the information that issuers must disclose in accordance with the DCG. It describes the practices of SIX Exchange Regulation (SER), the Sanctions Commission, the Board of Arbitration and other authoritative panels of SIX Swiss Exchange. The practices of SER and sanction notices/rulings are now presented in two separate columns.	3
	The DCG has the objective of obliging issuers to make available to investors in a suitable form certain key information with regard to Corporate Governance practices within their company. The articles of the Directive itself contain provisions that address, among other things, the scope of applicability, the basic principle of clarity and materiality, as well as where the relevant information is to be located in published material. The Annex to the DCG lists the content and scope of the specific information that is to be disclosed.	4
	Of the three linguistic versions of the DCG and the Guideline on the DCG (German, French and English), the German text is deemed to be the authoritative version.	5
	The provisions of the DCG are cited by means of the corresponding article number (Art.), while provisions laid out in the Annex to the DCG are indicated by their respective item numbers (Points). The notes of this Guideline are cited as notes (N).	6

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
I. General provisions				
Background				
Art. 1	Under the Federal Act on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading (FMIA), the Regulatory Board determines what information needs to be published so that investors are able to evaluate the characteristics of securities and the quality of issuers. Internationally recognised standards are taken into account (Art. 35 para. 2 FMIA). The information to be published includes details on the management and control mechanisms at the highest corporate level of the issuer (Corporate Governance).	SIX Swiss Exchange derives its regulatory authorities to issue the Directive on Information relating to Corporate Governance (DCG) from Art. 35 FMIA as well as Art. 1, 3 et seq. and 49 LR.		7
		The DCG governs the disclosure of information on Corporate Governance in the issuer's annual report. It does not contain any provisions pertaining to the specific details of the entity's Corporate Governance structures. From the perspective of the stock exchange, the issuer is free to decide how it organises itself and how it handles shareholder rights. The Directive does however require issuers to provide a clear description of how Corporate Governance is managed within their entity. The purpose of this is to allow investors to gain an impression of the exact provisions made for Corporate Governance by the issuer in question based on the pertinent comments in the annual report.		8

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
	Purpose			
Art. 2	This Directive obliges issuers to make certain key information relating to Corporate Governance available to investors in an appropriate form.	The DCG has the aim of ensuring that investors have access to key information concerning the issuer's Corporate Governance, and this in a suitable form (see Art. 5). The presentation of how Corporate Governance is in fact carried out is aimed at strengthening investor's cognisance of the law of companies listed with SIX Swiss Exchange as well as enhancing the reputation of the Swiss financial marketplace.	Decision of the Disciplinary Commission dated 18 June 2007 (DK/CG/III/06) , Point 7: If an issuer does not disclose the information in accordance with the Annex to the DCG , it shall be in breach of the reporting obligation pursuant to the provisions of the LR .	9
			Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/I/06) , Point 15: "Die RLCG bezweckt, die Informationen den Investoren nicht irgendwie, sondern in geeigneter Form, mithin in einfacher und möglichst standardisierter Weise zugänglich zu machen."	10
	Scope of applicability			
Art. 3	This Directive applies to all issuers whose equity securities have their primary or main listing on SIX Swiss Exchange Ltd (SIX Swiss Exchange).	This provision stipulates the scope of the Directive's applicability: The Directive only applies to entities with primary or main listing of equity securities on SIX Swiss Exchange (i.e. shares, participation certificates).		11
		The provisions of the DCG do not apply to issuers with secondary listing or entities that have only listed debt securities (such as bonds) on SIX Swiss Exchange. They also do not cover issuers that exclusively list derivative financial instruments, collective capital investments (funds, Exchange Traded Funds [ETFs]) or Exchange Traded Products (ETPs).		12
		The issuer's legal structure is immaterial. The DCG therefore applies not only to stock corporations in accordance with the Swiss Code of Obligations (CO), but also to public bodies and stock corporations covered by special legislation provided the primary or main listing of their equity securities is with SIX Swiss Exchange.		13

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		No other provisions of regulatory law, for example stipulated by the Swiss Financial Market Supervisory Authority (FINMA), shall negate the requirement to comply with the DCG .	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Points 8.3 and 9.4: Discussions and agreements with FINMA or the external auditors regarding systems of compensation or the concrete setting of compensation levels do not negate the disclosure obligations in accordance with the DCG . The Directive applies equally to all of the issuers it covers, irrespective of whether they are regulated by FINMA or other authorities and regardless of whether an audit firm assesses compliance with the provisions of regulatory law.	14
		Examples: 1. The equities of a company with no registered offices in Switzerland have a primary or main listing on SIX Swiss Exchange. The equities are also listed in New York. The DCG applies.	Decision of the Disciplinary Commission dated 27 November 2003 (not published): The Disciplinary Commission explicitly confirmed that the DCG also applies to issuers with no registered offices in Switzerland.	15
		2. A company with registered offices in Switzerland exclusively has bonds listed on SIX Swiss Exchange. The DCG does not apply.		16
		3. The participation certificates of a company with no registered offices in Switzerland initially only have a primary or main listing on SIX Swiss Exchange. The company lists equities on the domestic exchange of its home country at a later date. The DCG applies insofar as the primary or main listing of the participation certificates is on SIX Swiss Exchange.		17
		With respect to the the Ordinance against Excessive Compensation at Listed Joint-Stock Companies (OaEC), it is important to stress that companies with no registered offices in Switzerland and also companies with registered offices in Switzerland to which the provisions of OaEC do not apply must comply with the disclosure obligations relating to the compensation paid to their boards of directors and the executive committee (Art. 663b ^{bis} CO or Art. 13 et seq. OaEC) (please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point I.B.).		18

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
II. Disclosure obligations				
Information to be published				
Art. 4	The information to be published in the annual report is indicated in the Annex to this Directive.	The information to be disclosed in accordance with the Annex to the DCG must be published in the annual report of the issuer in question.		19
Clarity and importance				
Art. 5	The publication of information relating to Corporate Governance should be limited to what is essential to investors, and should be provided in an appropriate and comprehensible form.	Basing an assessment on a company's legal form despite different circumstances in practice violates the principles of clarity and materiality . The principle of " substance over form " always applies for the purposes of the DCG , meaning that actual circumstances take precedence over legal form.	Decision of the Sanctions Commission dated 8 December 2011 (SaKo 2011-CG-I/11) , Points 19 and 21: Issuers cannot escape their disclosure obligations by creating a special legal construct. The Sanctions Commission ruled that, in the event that management functions are outsourced to a third party, the calculation of the fee paid for these services must be disclosed (Point 5.1 Annex).	20
			Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 6: "Wird ohne Beachtung der davon abweichenden tatsächlichen Gegebenheiten auf die rechtliche Form abgestützt, so ist der Grundsatz der Klarheit und Wesentlichkeit der RLCG verletzt."	21
		In the interest of presenting the information in a way that is clear (clarity of form), it is advisable for the Corporate Governance Report (CG report or CG section) to follow the structure of the DCG or its Annex.	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Points 4 and 8.2: Art. 5 gives issuers leeway regarding the structure of their CG report. The disclosure obligations of the DCG are not only satisfied by certain statements that have been approved by SER. Rather than details, issuers must disclose information that is material to investors as per Art. 5 .	22
		Clarity: The information to be disclosed must be presented in a clear manner. This means clarity with regard to presentation (clarity of form) and also with regard to content (clarity of substance). The information must be structured in such a way as to be comprehensible and meaningful to an investor with an average level of understanding . The target audience is not only existing investors but also potential investors as well.	Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-II/06) , Point 12: The company is obliged to ensure that its comments are clear by providing supplementary information as necessary.	23

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		There is no obligation to make “negative statements” in the information on Corporate Governance. In the interest of clarity of form, however, it may be expedient to make such statements in isolated cases regarding circumstances that must be disclosed but that are not present at or do not apply to the company in question.	Decision of the Admission Board committee dated 10 April 2006 (ZUL-CG-VI-05) , Point 16: The relevant comments must be presented in such a way that an investor can understand the information.	24
		If OaEC does not apply to a particular issuer, the CG report should contain a notice to this effect in the interest of transparency. In the case of stock corporations covered by special legislation in particular, it is not necessarily clear to market participants a priori whether a particular company is subject to the provisions of OaEC or not (please also refer to N 18 or N 259 in this regard).		25
		Including too many references (cf. Art. 6) may go against the requirement regarding clarity of form. Specifically, it is necessary to avoid a situation in which the sections of text in the annual report or the documents that are referenced to contain references to other sections or documents (please refer to N 37 below in this regard).		26
		In the interest of clarity of substance , the use of terms with no substantial meaning is to be avoided. Unclear terms are to be defined in greater detail.		27
		Materiality: The information presented must be of material significance. “Materiality” in this regard means information that is indispensable to the investor within the context of it being relevant to his or her ability to assess the Corporate Governance practices of the company. Content-free, meaningless phrases (“boilerplate language”) are to be avoided.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 6: “Die veröffentlichten Informationen haben für die Anleger auch wesentlich zu sein. Dies ist dann der Fall, wenn die Einschätzung der Corporate Governance der Gesellschaft in den Augen der Anleger durch die Veröffentlichung dieser Informationen beeinflusst wird.”	28
		Materiality has both qualitative and quantitative components. An item of information is deemed to be material if it could influence the addressee’s judgement of the company’s Corporate Governance (qualitative component).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 6: “Die von der RLCG verlangten Informationen sind so zu publizieren, dass sie für durchschnittlich informierte Investoren sowohl in Bezug auf die Darstellung als auch auf den Inhalt klar, verständlich und aussagekräftig sind. Inhaltsleere Formulierungen und Floskeln sind zu unterlassen.”	29

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		Certain information of lesser significance may be omitted under certain circumstances without impairing the informativeness of the report on Corporate Governance. The excessive presentation of immaterial information may be detrimental to the clarity of the comments (quantitative component).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 6: "Die veröffentlichten Informationen haben für die Anleger auch wesentlich zu sein. Dies ist dann der Fall, wenn die Einschätzung der Corporate Governance der Gesellschaft in den Augen der Anleger durch die Veröffentlichung dieser Informationen beeinflusst wird."	30
		However, this must not be allowed to result in the comments being truncated to the extent that certain elements or aspects that are required to understand the circumstances to be disclosed are omitted.		31
		Materiality is assessed both with respect to individual items of information that are specifically required and also with respect to their overall impact . It is therefore entirely possible that various individually insignificant and therefore omitted pieces of information could indeed be material when taken as a whole.		32
		The term "significant" or "important" is used in individual provisions of the Annex to the DCG (e.g. Points 3.2 and 4.2 of the Annex). The term may not have other, distinct meanings under the aspect of materiality.		33
		It is permissible to present more information than the minimum required by the DCG provided that such information is always in keeping with the objectives and principles of the DCG (cf. Art. 2 and 5).		34

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
Place of publication				
Art. 6	Information relating to Corporate Governance is to be published in a separate section (CG-Report) of the annual report. This section may refer to other parts of the annual report (including the remuneration report) or other easily accessible sources or sources of supply. References to web pages must include the URLs.	The information required by the DCG must be published in the issuer's annual report. For purposes of clarity, the DCG stipulates that a separate CG section (CG report) be included in the annual report.		35
		Appropriate references to additional information disclosed in other parts of the annual report (such as the remuneration report) may be used in the CG report. In this case the exact source must be provided (e.g. page or section number, please also refer to notice no. 8/2010 issued by SIX Exchange Regulation on 17 August 2010 , Point II.B.).	Decision of the Admission Board dated 23 November 2006 (ZUL-CG-II/06) , Point 23: The issuer is not required to repeat information regarding the remuneration paid to members of the executive committee in the CG report that is already published in the notes to the annual report. The issuer is however obliged to provide a reference in the CG section to the exact source in the notes.	36
		For reasons of clarity (cf. Art. 5 , above N 26), references should be used sparingly. Specifically, "reference chains" should be avoided: Care should be taken to avoid referring to a section of another document regarding a certain item of information that is to be disclosed, and for the section in question to contain another reference to a different section. The investor has a right to find the relevant information within a short space of time. The reader should also not be forced to "track down" the information to be provided in accordance with the DCG .	Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I/06) , Point 18: Other easily accessible sources of information may also be referenced in addition to the issuer's web site. However, simply referring to the company's internal documents or information on how and where an interested third party can gain access to their contents or a copy of the same upon request (in this case the rules of organisation or the rules of the audit committee) is not sufficient to meet this requirement. An individual inquiry followed by the delivery of the information by post or by electronic means does not qualify as quickly obtainable, since it usually takes several days after an inquiry is sent for the information to be received (in the case of delivery by post in particular).	37

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		Merely referring to a given web site by means of a blanket reference that constitutes the sole content of the CG report is not permissible.	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 7.3: The issuer provided a reference to the allocation of authorities within the group in connection with the delineation of authorities between the board of directors, its committees, the CEO and group management. Referring to other documents is only permitted, however, if investors can access said documents quickly and free of charge. In this case the CG report referred to an internal regulation without providing a source or a direct path. The Sanctions Commission deemed this to be insufficient.	38
		Other sources of information may also be referred to provided they can be accessed easily, quickly and free of charge (e.g. delivery of documents by fax or e-mail, please also refer to notice no. 8/2010 issued by SIX Exchange Regulation on 17 August 2010 , Point II.B.). References to other documents such as the company's rules of organisation are only permitted if they can be easily and quickly accessed or viewed by market participants.	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 6: The company conceded that its CG report for 2008 did not contain any information on the changes in its capital in the three preceding reporting years. It did however claim that the figures for its shareholders' equity were included in the annual reports for 2006 and 2007, which are published online. But since the information from the 2008 annual report was not included and no precise search path stating the source was provided in the CG report, Point 2.3 of the Annex was found to have been violated.	39
		Express provision has been made for the option of providing references to web sites. In such cases, the exact, direct weblink or path must be provided. It is not sufficient merely to refer to the issuer's homepage unless the location of the document is clearly indicated on the web page.		40
		If reference is made to web sites with dynamic data, then in addition to such data, the availability of static, date-specific information must also be ensured. Like the annual reports themselves (cf. Art. 13 para. 1 of the Directive on Financial Reporting [DFR]), this information must be made available on the web site for at least five years after the publication of the annual report.		41

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		It would therefore not be permitted, for example, to refer to relevant information on the company's web site in connection with the career history of members of the board of directors or the executive committee, and subsequently remove the information on individual people from the web site after they have left the body in question. Like the corresponding annual reports that contain references to the web site, the information in question must be available on the web site for five years following the publication of the annual report (in an archive, for example).		42
		If the remuneration report (Art. 13 et seq. OaEC) includes information that is also required in accordance with the DCG, and if the report is not published until after the annual report, the relevant reference in the CG report must include the publication date of the remuneration report. In this case, Article 10 (1) of the DFR h be observed with regard to the latest possible date of publication of the remuneration report.		43
"Comply or explain"				
Art. 7	For all information prescribed in the Annex, the principle of "comply or explain" applies. If the issuer refrains from disclosing certain information, a specific reference to this effect must be included in the CG-Report, and substantial grounds must be given for each individual case in which information is not disclosed.	Issuers fulfil the provisions of the DCG (i.e. "comply") by disclosing the required information. If an issuer does not disclose details called for in certain specific Points of the Annex, then the rationale for that decision must be substantiated (i.e. "explain"). If no facts have occurred with regard to the given Point, or if it does not apply to the issuer, it is advisable in any case to make a negative statement in the CG report for reasons of clarity (Art. 5, please refer in this regard to N 24) above .	Decision of the Sanctions Commission dated 28 October 2010 (SaKo 2010-CG-III/10) , Point 4.5 et seq.: The investors must be able to gain a clear impression of the criteria for setting compensation. It is not enough to simply state that the amount of the performance-based component depends on the operating result. But if the issuer effectively opts not to provide any further information regarding the specifics, he or she must say why ("explain").	44
		Issuers may only waive disclosure of relevant information if they can substantiate their rationale for doing so (i.e. "explain"). The concept of substantial rationale is subject to interpretation. Essentially, the issuer must weigh the interest of the public in the disclosure of the relevant information against its own interest in its non-disclosure .	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 10: Issuers must meet the requirements of the DCG in compliance with the principle of "comply or explain" as set out in Art. 7. The prescribed information must be provided. If the issuer opts not to disclose certain information, the rationale for doing so must be substantiated for each individual case in the CG report.	45

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		The substantiated explanations must be provided in a manner that enables the reader to understand how both parties' interests have been taken into consideration. In order for the "explain" clause to apply, the interest of the company in non-disclosure must be objectively greater than the public's interest in disclosure. This requirement is not fulfilled by a general statement that the undisclosed information is a business secret.	Decision of the Admission Board dated 10 April 2006 (ZUL-CG-VI-05) , Point 18 et seq.: The Admission Board decided that opting not to disclose a control clause and any defence measures in the event of a hostile takeover, citing business secrecy as the reason , does not comply with the rules because the reasons why the company has not provided the relevant information in the CG report are not sufficiently substantiated. Investors are therefore unable to judge whether the company's interest in the non-disclosure of the information in question outweighs the investors' interest in its disclosure.	46
Reporting date				
Art. 8	The conditions on the balance sheet date constitute the deciding factor in terms of the information that must be disclosed. Important changes occurring between the balance sheet date and the copy deadline for the annual report should be indicated in an appropriate form.	The issuer's balance sheet date is decisive.		47
		If any significant changes have taken place between the balance sheet date and the copy deadline for the annual report, then they must either be disclosed at the end of the CG section under the heading of "Material changes since the balance sheet date" or in a clearly designated manner with the correspondingly designated information (e.g. in a footnote).		48
		For example, if the composition of the board of directors or the executive committee changes essentially between the balance sheet date and the copy deadline for the annual report, the CG report must contain an explicit reference to this fact. All of the information required by the DCG must be provided regarding the people who were members of the board of directors and the executive committee on the balance sheet date, even if they left those bodies shortly after that date (please also refer to N 125 below).		49

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
		If, for example, the group's structure changes significantly between the balance sheet date and the copy deadline, a note to this effect must be included in the CG report (Point 1.1.2 of the Annex, please also refer to N 62 et seq. below).		50
		The balance sheet date is also always decisive for the information on significant equity investments (Point 1.2). But if the company's equity investments change significantly between the balance sheet date and the copy deadline, a note to this effect must be included in the CG report (please also refer to N 69 et seq. below).		51
		It may also be necessary to mention important factors that had an impact during the reporting year but are no longer relevant on the balance sheet date in the CG section under certain circumstances. Employee options (Point 2.7 of the Annex) issued following an Initial Public Offering (IPO) are therefore to be mentioned in the CG report even if the relevant programme came to an end in November and the balance sheet date is 31 December.		52
		Information must also be disclosed regarding management contracts that were terminated in the reporting year (Point 4.4 of the Annex, please also refer to N 194 et seq. below).		53
III. Final provisions				
Entry into force				
Art. 9 Para. 1	This Directive enters into force on 1 October 2014 and replaces the Directive on Information relating to Corporate Governance of 29 October 2008.			54
Art. 9 Para. 2	It shall be applied for the first time to the report for that financial year which begins after 31 December 2013.			55

SIX Exchange Regulation Guideline (Guideline DCG)

Fully revised version dated 10 april] 2017

Article/ Para- graph	DCG	Explanatory notes SIX Exchange Regulation (SER)	SER/Sanctions Commission/Board of Arbitration rulings	Note (N)
Revision				
Art. 10	Amendments due to the entry into force of the Financial Market Infrastructure Act and related ordinances in Art. 1, Annex 1.2 and Annex 7.1 as of 1 April 2016.			56

Annex

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
1	Group structure and shareholders			
	The following information on the group structure and the shareholders must be disclosed:			57
1.1	Group structure			58
1.1.1	Description of the issuer's operational group structure.	The group's operating structure is to be presented based on its internal organisational criteria ("management approach") . In other words, the internal group structure that forms the basis for management's decision-making is the decisive element in this disclosure obligation.		59
		If the consolidated annual financial statements already include detailed segment reporting, as required by IFRS and US GAAP in particular, a corresponding reference is sufficient provided the individual segments are defined and explained based on the group's internal organisational principles. In this case the exact source in the annual financial statements is to be provided in the CG report (Art. 6 , please also refer to N 35 et seq. above).		60
		The operational group structure may also be presented graphically.		61
1.1.2	All listed companies belonging to the issuer's group, including the company names, their registered offices, where they are listed, their market capitalisation, the percentage of shares held by subsidiaries and the security or ISIN numbers of the securities.	The information to be published in accordance with Point 1.1.2 of the Annex includes the name, registered office, place of listing, market capitalisation, securities number and ISIN of parent/holding companies listed on SIX Swiss Exchange.		62
		If one or more of the issuer's group subsidiaries are listed themselves, the corresponding information must also be disclosed for those companies.		63
		In the case of listed subsidiaries that are part of the issuer's consolidated group and do not have their registered offices in Switzerland, not only does the subsidiary's country of domicile need to be provided but also the relevant municipality or place of administration.		64

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
1.1.3	The non-listed companies belonging to the issuer's group, including the company names, their registered offices, their share capital and the percentage of shares held by subsidiaries.	In the case of group structures with a large number of subsidiaries, only the most significant listed entities within the issuer's scope of consolidation need to be disclosed. "Dormant companies" that have no substantial net assets are not to be itemised.		65
		If not all consolidated subsidiaries are listed in the CG report, an explicit reference is to be made to this fact. The criteria used to classify certain subsidiaries as material or immaterial are also to be explained.		66
		In the case of non-listed subsidiaries that are part of the issuer's consolidated group and do not have their registered offices in Switzerland, not only does the subsidiary's country of domicile need to be provided but also the relevant municipality or place of administration.	Sanction decision of SIX Exchange Regulation dated 10 November 2011 (SER-CG-I/11) , Point 47: Point 1.1.3 of the Annex explicitly requires the exact registered office to be stated. This not only involves providing the country of domicile but also the municipality in which the subsidiary is based. The issuer does not have any discretion in this regard. Stating the country of domicile only does not comply with Point 1.1.3 of the Annex.	67

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
1.2	Significant shareholders			68
	Significant shareholders and significant groups of shareholders and their shareholdings to the extent that the issuer is aware of them. Disclosures must be made in accordance with the information that has been published on the reporting and publication platform of the Disclosure Office of SIX Swiss Exchange pursuant to Art. 120 et seqq. FMIA and the provisions of the Swiss Financial Market Supervisory Authority Ordinance on Financial Market Infrastructures and Market Conduct in Securities and Derivatives Trading. This includes the key elements of shareholders' agreements published in this connection. The individual reports that were published during the year under review must also be listed, or a reference must be given to the relevant Disclosure Office web page.	The purpose of this provision is to provide clarity with respect to the significant groups of shareholders and their shareholdings in the issuer. In order to provide this kind of overview of the actual control arrangements with respect to the issuer on the balance sheet date (cf. Art. 8), significant shareholders and groups of shareholders and their shareholdings on the balance sheet date are to be listed provided and insofar as the issuer is aware of them (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.A.).		69
		The volume of the shareholding should at least be given as a percentage.		70
		On the one hand, the disclosure of significant shareholders allows a conclusion to be drawn about their influence within the company and, on the other, is also to be viewed in light of Point 7.1 of the Annex pertaining to the duty to make a takeover offer (please refer to N 292 below).		71
		The duty to disclose applies to all issuers whose participation rights (equity securities) have their primary or main listing on SIX Swiss Exchange, regardless of whether or not their registered office is in Switzerland (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.A., in this regard).		72

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		If shares are held indirectly, the beneficial owner for the purposes of the law governing disclosure must at least be named (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.A., in this regard). In this context, the question of whether the voting rights acquired together with the shareholdings can be exercised or not is also immaterial.		73
		The issuer is at liberty to provide more detailed information regarding the volume of the shareholdings (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.A., in this regard). If the company has more detailed information regarding the precise volume of the shareholding that deviates from the notifications published on the platform of SIX Swiss Exchange's Disclosure Office – for example based on the share register – it may include the more precise figures in the CG report on a voluntary basis. It may also report transactions that do not need to be disclosed pursuant to FMIA. In this case, however, reference must be made to deviations in relation to the notifications provided in accordance with Art. 120 et seq. FMIA.		74
		The issuer is under no obligation to disclose the treasury shares it holds on the balance sheet date. It is however at liberty to do so on a voluntary basis.		75
		In addition to the actual situation on the balance sheet date as a percentage, either the individual notifications published on the reporting platform of SIX Swiss Exchange's Disclosure Office during the reporting year are to be listed or a reference must be provided to the relevant web site of the Disclosure Office (including the weblink, Art. 6 , please also refer to N 35 et seq. or 40 et seq. above).		76
		If the shareholder structure has changed significantly between the balance sheet date and the copy deadline, and these changes could impact the company's decision-making process, for example (including by affecting the thresholds for the exercise of shareholder rights), this must be mentioned in accordance with Art. 8 (please also refer to N 47 et seq. above in this regard).		77

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Equity derivatives such as options or convertible bonds that must be reported in accordance with the law governing disclosure do not have to be disclosed in accordance with the DCG (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.A., in this regard).		78
		If, in connection with the publication of disclosure notifications pursuant to Art. 120 et seq. FMIA, the key elements of shareholders' agreements have been published, then those elements are to be disclosed under Point 1.2 of the Annex. A reference may also be made to the reporting platform of the Disclosure Office, including the corresponding weblink (Art. 6 , please also refer to N 35 et seq. or 40 et seq. above).		79
1.3	Cross-shareholdings			80
	Cross-shareholdings that exceed 5% of the capital shareholdings or voting rights on both sides.	This provision has the purpose of shedding light on any interlocking shareholdings the issuer may have with other companies. Such cross-shareholdings can represent a take-over barrier as well as have a negative impact on the control function shareholders exercise over management, especially in instances of a small shareholder turnout at the annual general meeting.		81
		Given the existence of cross-shareholdings that respectively exceed a threshold level of 5% of the voting rights and/or equity capital of the companies involved, then both shareholdings are to be disclosed together with the name of the company, type and number of equity securities held, as well as the total percentage of voting rights and equity capital associated with such shareholdings.		82
		It should be borne in mind that, in contrast to the obligation to disclose significant shareholders, both the percentage of voting rights and percentage of equity capital are of material importance.		83
		Also, in contrast to the disclosure of shareholdings, the mere reaching of the threshold is not sufficient to trigger the disclosure obligation. Instead, such disclosure only becomes mandatory once the 5% threshold has been exceeded .		84
2	Capital structure			
	The following information about the capital structure must be disclosed:	The respective details required are to be disclosed as they exist within the group at the holding level (individual company account).		85

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
2.1	Capital			86
	The amount of the issuer's ordinary, authorised and conditional capital on the reporting date.	In the CG report it is therefore sufficient to refer to the corresponding sections of the annual financial statements and notes (please also refer to Art. 6 and N 36 et seq.).		87
2.2	Authorised and conditional capital in particular			88
	In addition, the following information must be disclosed in connection with the issuer's authorised and conditional capital: a) the maximum increase in authorised or conditional capital and the duration of the authorisation period to carry out an increase in capital; b) the group of beneficiaries who have the right to subscribe for this additional capital; c) the terms and conditions of the issue or creation of equity securities corresponding to the additional capital. d)	In addition to the information disclosed as per Point 2.1 of the Annex, Point 2.2 of the Annex requires that additional details be provided concerning authorised and conditional capital. The information that must be disclosed in the CG report largely corresponds to the details pertaining to authorised and conditional capital increases that are to be governed by the corporate statutes pursuant to Art. 651 and 653b CO. If the CG section contains references to the corporate statutes, the relevant source (e.g. weblink) must be provided (please also refer to Art. 6 and N 36 et seq. above).		89
		Among the terms and conditions that are to be published as per Point 2.2 lit. c of the Annex are, if applicable, the share registration provisions attendant to the subscription for and purchase of the newly issued shares, any limitation on or the suspension of subscription rights, a description of the group of beneficiaries, the assignation of unexercised or withdrawn subscription rights, any limitation on or cancellation of preemptive subscription rights, as well as information regarding the exercise conditions attendant to the convertible or warrant rights and the basis for calculating the issuance price. The information that must be disclosed is usually set out in the articles of association. If the CG section contains refer-		90

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		ences to the corporate statutes, the relevant source (e.g. weblink) must be provided (please also refer to Art. 6 and N 36 et seq. above).		
		The amount by which the issuer's equity would increase in the event that the maximum amount of authorised or conditional capital were to be utilised must be stated, and this figure is to be compared with the volume of equity before the conditional or authorised capital was created (suggested wording: "Conditional capital amounts to a maximum of CHF 20 million, which equates to 35% of the existing share capital").		91
2.3	Changes in capital			92
	A description of the changes in capital during the last three financial years.	Changes in capital must be disclosed in terms of amounts for all types of share capital and/or participation capital. Details of changes in capital serve, in particular, to inform the investor of events which have led or might lead to a dilution of entitlement to assets, share of earnings or voting power.		93
		As it pertains to the second and third year prior to the given year under review, the inclusion of references to previous annual reports is permissible. In this case, the corresponding weblink to earlier annual reports and the relevant source in those reports are to be provided in the CG report (Art. 6 , please also refer to N 40 et seq. above).	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 6: The company conceded that it had omitted a description of the changes in capital during the last three reporting years from the CG report, but argued that the figures for equity were contained in its previous annual reports that had been published online. This is in breach of the DCG , however, because the information is not provided in the current annual report.	94
		The use of the related proceeds, and hence the purpose of the changes in capital, need not be disclosed. Exceptionally, that information is to be disclosed if it is of material importance to the investor, for example in cases of very large changes in capital (please also refer to Art. 5 as well as N 28 et seq. above).		95
2.4	Shares and participation certificates			96
	The number, type and nominal value of the issuer's shares and participation certificates, including the main features, for example dividend entitlement, voting rights, preferential rights and	Point 2.4 of the Annex requires disclosure of information about the type of shares (registered or bearer) or participation certificates, as well as the main related ownership or asset rights .		97

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
	similar rights, along with an indication of the portion of the ordinary capital which is not paid in.			
		Information must also be provided regarding non-listed share categories and participation certificates. If, for example, a company has non-listed preferential shares and listed ordinary shares, explicit reference must be made to this fact in the CG report.		98
		In the case of shares, indication is to be given of the relationship between voting rights and equity ownership, as the observance of the principle of “one share, one vote” is not mandatory in Switzerland.		99
		Issuers whose capital is not or not entirely composed of share or participation capital (e.g. the cantonal banks, which have endowment capital), but which also have access to capital in accordance with cantonal law (“endowment capital”), must report the existence of this special type of capital in the CG report. In particular, the amount of this special type of capital must be indicated.		100
		Furthermore, in the interest of transparency, it must be disclosed that, under public cantonal law, investors do not have the same rights of co-determination as are granted to shareholders by the CO.		101
2.5	Dividend-right certificates			102
	The number and the main features of the issuer's dividend-right certificates.	Among the main features that must be disclosed with regard to dividend-right certificates are the substance of their associated rights (e.g. right to receive dividends under exclusion of any entitlement to subscription rights or a portion of the proceeds of the liquidation of the company), as well as indication of those who enjoy such dividend rights (cf. Art. 657 CO).		103
		If various categories of dividend-right certificates have been issued, the relevant information is to be provided for each category.		104
2.6	Limitations on transferability and nominee registrations	In accordance with Art. 55 LR in conjunction with Art. 9 Point 3.06 of the Directive on Regular Reporting Obligations for Issuers of Equity Securities, Bonds, Conversion Rights, Derivatives and Collective Investment Schemes (Directive Regular Reporting Obligations, DDRO), issuers must report any share registration provisions as well as their abolition to SER.		105

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		If the CG report contains a reference to the corporate statutes in connection with the registration provisions, the relevant source (e.g. weblink) must be provided (please also refer to Art. 6 as well as N 36 et seq. above).		106
2.6.1	Limitations on transferability for each share category, along with an indication of group clauses in the articles of association, if any, and rules for granting exceptions.	The limitations on transferability and other reportable information are to be disclosed for each category of shares.		107
		For issuers based in Switzerland, practically the only basis still applied for limiting share registration is the percentage clause (Art. 685d para. 1 CO). If such a percentage limit exists, Point 2.6.1 requires that indication be given of the precise limit.		108
		Furthermore, if applicable, the CG report must also include a reference to “ trustee registration ” in accordance with Art. 685d para. 2 CO.		109
		If the issuer's corporate statutes stipulate limitations on transferability, that relate to special legal regulations (please refer to Art. 4 of the concluding provisions of Section XXVI CO, for example the Swiss Federal Act on the Acquisition of Land by Persons Abroad, known as “Lex Koller”), these must also be mentioned in the CG report.		110
		If the corporate statutes provide for a group clause (i.e. application of the percentage clause to investors who act in concert), then such a provision is to be disclosed. However, publication of the wording of the group clause is not required. In this context, it is also sufficient to make a direct reference to the source (cf. Art. 6 , please also refer to N 36 et seq. above).		111
		With regard to the granting of exceptions, the related rules as well as the competent body responsible for granting such exceptions is to be disclosed (in the case of a reference to a relevant set of regulations, Art. 6 must be taken into consideration, please refer to N 36 et seq. above). If the decision made by the body responsible for granting exceptions is a discretionary decision, explicit reference must be made to this fact.		112

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
2.6.2	Reasons for granting exceptions in the year under review.	If exceptions were granted during the reporting year, the reasons why they were granted are to be stated in the CG report. So that the reasons for granting exceptions can be presented in a comprehensible manner, the underlying facts are to be discussed in brief, if necessary in an anonymous form.		113
2.6.3	Admissibility of nominee registrations, along with an indication of percent clauses, if any, and registration conditions.	There are no legal regulations in Switzerland pertaining to the institution of the "nominee" as derived from the laws of English-speaking countries. Each company must decide for itself about the adoption of such a system and the finer details of that system.		114
		A nominee is generally a legal entity, appearing in a commercial capacity, which acquires shares and registers them with the company. It does so in its own name but for the account of that customer. This discloses its trustee status and the nominee declares itself, subject to certain conditions, prepared to reveal the identity of its principle to the company.		115
		If relevant, the percentage limit, any group clause and the registration requirements as per Point 2.6.3 of the Annex are to be disclosed.		116
2.6.4	Procedure and conditions for cancelling privileges and limitations on transferability laid down in the articles of association.	The procedure and requirements for eliminating statutory privileges and limitations on transferability must be briefly described, together with an indication of the necessary quorum.		117
2.7	Convertible bonds and options			118
	Outstanding convertible bonds and number of options issued by the issuer or by subsidiaries on the issuer's equity securities (including employee share options, which must be indicated separately), along with an indication of the duration, the conversion conditions or exercise price, the subscription ratio and the total amount of the share capital concerned.	In addition to the information required by Art. 959c para. 4 CO (amount, interest rates, maturities and other conditions) as it pertains to bonds (including convertible bonds) the term to maturity, conversion conditions or exercise price, the relevant exercise ratio as well as the amount of total covered equity capital.		119

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Information pertaining to the conditions of a given bond issue may also be provided in the notes to the (separate) annual financial statements in the annual report. If this is the case, a reference to the notes to the annual financial statements is sufficient (cf. Art. 6 , please also refer to N 36 et seq.).		120
		The amount by which the share capital would increase given the maximum conversion of convertible bonds and options is also to be stated, and this figure is to be juxtaposed with the volume of share capital before the convertible bonds and options were issued.	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 5.2: The company must state the entire amount of share capital covered. The decision whether the information expressly required by the DCG is relevant or of interest to investors lies with the company. The company and not the reader is responsible for carrying out the relevant calculation and stating the resulting figure explicitly in the CG report.	121
3	Board of directors			
	The following information about the issuer's board of directors must be disclosed:			122
3.1	Members of the board of directors			123
	For each member of the board of directors:	One of the purposes of this provision is to disclose the composition of the issuer's board of directors as of the balance sheet date to investors (cf. Art. 8 as well as N 47 et seq. above). It may also be necessary to mention important factors that had an impact during the reporting year but are no longer current on the balance sheet date in the CG report under certain circumstances. This means that changes in the membership of the board of directors during the reporting year, including departures, are to be mentioned in the CG report together with the relevant dates. Regardless of the fact that the provisions of stock corporation law pertaining to the discharging of members of the board of management for the relevant reporting year also apply to former members (Art. 698 para. 2 point 5 CO), it is important for investors to know who was responsible for the company's fortunes at what points during the reporting year.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 41: In its decision, the Admission Board committee referred to the importance of this information for investors. According to the committee, the information allows investors to make a better assessment of the quality of the company's top management.	124
		Based on Art. 8 , essential changes in membership occurring between the balance sheet date and the copy deadline must also be disclosed (please refer to N 48 et seq. above in this regard). This can also be implemented using footnotes.		125

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Reciprocal relationships between the company and its board members should also be disclosed so as to reveal any inter-dependencies that may exist.		126
		Information must also be provided on the composition of the board with regard to its members' professional background, nationality and the ratio of executive to non-executive members. The executive or non-executive status of each board member is to be stated (please also refer to N 133 et seq. below in this regard).		127
	a) name, nationality, education and professional background;	At minimum, the most recent educational level must be disclosed regardless of how long ago it was completed. Uncompleted courses should not be disclosed. Examples of education include: <ul style="list-style-type: none"> - Completed apprenticeship; - Commercial apprenticeship; - Federally recognised certificates of proficiency; - Baccalaureate; - Degree from a technical college, university degree; - Solicitor's degree; - MBA etc. 	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 13: By failing to publish information on the members of the board of directors and the executive committee, the company withheld important information regarding Corporate Governance from its current and potential investors, and therefore violated Points 3.1.a, 3.2.a, 4.1 and 4.2 of the Annex to the DCG. Information on the board members and the executive committee of listed companies is very valuable to investors. The information allows investors to make a better assessment of the quality of the company's top management and supervisory functions.	128
		Aspects of the career to date include professional (management) positions and responsibilities of at least the last ten years that are relevant to the current professional role in terms of the sector or management tasks. If possible, this information should include the years/time period and the sector/company.	Sanction decision of SIX Exchange Regulation dated 10 November 2011 (SER-CG-I/11) , Point 48: The wording of the relevant provisions of the DCG does not allow any room for doubt that the pertinent information on professional education must be provided for every member of the board of directors. The clear wording does not offer the company any discretion.	129
		If the issuer provides a reference to its web site instead of including the necessary information in its CG report or annual report, the relevant information on former board members must be made available on the web site for five years after they stand down. This is the period prescribed by Art. 13 para. 1 DFR for the uploading of financial reports to the company's web site (cf. Art. 6 as well as N 40 et seq. above).	Decision of the Admission Board dated 23 November 2006 (ZUL-CG-II/06) , Point 18: The company must decide what former positions are relevant to it as an issuer, and therefore need to be included in the annual report. It is not enough to simply state how long the person in question has been working for the company.	130
			Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 5 et seq.: The information on the professional background and current professional activity of the board members of listed companies is very important to investors because it allows them to	131

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			make a better assessment of the quality of the company's top supervisory and management functions. "Die beiden Begriffe «beruflicher Hintergrund» sowie «wesentliche Stationen» sind dementsprechend unter dem Aspekt der Relevanz für die Position in der jetzigen Gesellschaft und die jetzigen Investoren zu beurteilen. Der Begriff der Wesentlichkeit bezieht sich daher auf die aktuelle Führungsfunktion des Organmitglieds". Earlier professional positions therefore become less important the further back you go. The overall impression provided by the information is also important.	
			Decision of the Admission Board dated 23 November 2006 (ZUL-CG-II/06) , Point 19: The Admission Board found that the positions and functions held during the last ten years are to be disclosed in the CG section provided they are relevant to the current function at the issuer.	132
	b) operational management tasks for the issuer or one of the issuer's subsidiaries (executive/non-executive member);	Persons who carry out operational management tasks within the company are deemed executive members of the board of directors.		133
		For board members with executive responsibilities , a brief description should be given of the responsibilities in question unless their details can be derived from the information on the members of the company's management pursuant to Point 3.5 of the Annex (please also refer N 157 et seq.).		134
	c) For each non-executive member of the board of directors:	The concept of company management used here must be the same as the one applied to the information on the company's management (Point 4 of the Annex, please refer to N 181 et seq. below).		135
	– whether he or she was a member of the management of the issuer or one of the issuer's subsidiaries in the three financial years preceding the period under review;			136

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
	– whether he or she has significant business connections with the issuer or one of the issuer's subsidiaries.	Understood to be “business relationships” in this regard are all contracts that involve remuneration.	With respect to an authentic interpretation , the former Admission Board of SWX Swiss Exchange decided at its meeting held on 11 November 2002 that in addition to business relationships between the board member and the issuer, the term also covers business relationships between the issuer and a company or organisation represented by the board member.	137
		If such business relationships could potentially restrict the decision-making freedom of individual board members, the issuer or any of its governing bodies, then those relationships are deemed <i>per se</i> to be material and therefore must be disclosed.		138
		The fact that a board member regularly receives important tasks from the company, for example, can influence that board member's independence. By the same token, a board member may, for example, grant a loan to the company, which in turn places the issuer in a situation of dependency on said board member.		139
		Because the information must be presented factually and comprehensively, all important business relationships must be described in brief (cf. Art. 5 as well as N 20 et seq. above).		140
3.2	Other activities and vested interests	Whereas Point 3.1 of the Annex addresses the relationships between the company and its board members, Point 3.2 of the Annex has the objective of disclosing the board members' network of relationships with third parties. Such a network may be of advantage to the company, but it may also engender interdependencies and conflicts of interest. The name of the third party must be provided as this is the only way for investors to assess whether there are any conflicts of interest or dependencies. Moreover, investors should be enabled to assess whether a given board member has sufficient time available to perform his or her duties of office.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 41: In this decision, the Admission Board emphasised the significant interest on the part of investors in this information. According to the committee, the information allows investors to make a better assessment of the quality of the company's top management.	141
	For each member of the board of directors:			142
	a) activities in governing and supervisory bodies of important Swiss and foreign organisations, institutions and foundations under private and public law;	The term “important” as it is used in lit. a and b of Point 3.2 of the Annex is to be interpreted within the context of materiality (cf. Art. 5 as well as N 20 et seq. above).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 13: By failing to publish information on the members of the board of directors and the executive committee, the company withheld important information regarding Corporate Governance from its current and potential investors, and therefore Points 3.1.a, 3.2.a, 4.1 and 4.2 of the Annex. Information on the board members and the executive committee of listed	143

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			companies is very valuable to investors. The information allows investors to make a better assessment of the quality of the company's top management and supervisory functions.	
		Deemed to be important private and public organisations (in Switzerland, primarily companies and cooperatives) are in all cases listed companies or, as it were, companies whose size allows them to fulfil the listing requirements at the level of international standards. The same applies to public-law foundations (for example, federal polytechnic institutes) and private law foundations (as it pertains to their quantitative significance).		144
		The term "important" is also to be interpreted within the specific context of the issuer (i.e. qualitative significance). By way of example, a board member's membership in an industry federation can be of significance to the Corporate Governance of the issuer even if, viewed from an overall economic perspective, that organisation appears to be of little importance. The same applies to organisations or foundations with which the company has significant business dealings.		145
	b) permanent management and consultancy functions for important Swiss and foreign interest groups;	The term "important" as it is used in lit. a and b of Point 3.2 is to be interpreted within the context of materiality (cf. Art. 5 as well as N 20 et seq. above).		146
		Similarly to Point 3.2 lit. a of the Annex, the importance of an interest group is assessed from the perspective of the economy as a whole (quantitative significance) and from the perspective of the issuer (qualitative significance) (please also refer to N 146 et seq. above).		147
	c) official functions and political posts.	The disclosure of official functions and political posts required by Point 3.2 lit. c of the Annex is to be based on the criterion of materiality (cf. Art. 5 as well as N 20 et seq. above). For example, the mere affiliation to a political party of a given board member is not a fact that requires disclosure. However, the duty to disclose does apply to an office such as that of a member of a cantonal government, a judge, a Federal Councillor, a National Councillor or Member of the Council of States etc.		148

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
3.3	Additionally for issuers subject to the Ordinance against Excessive Compensation at Listed Joint-Stock Companies (OaEC):			149
	Rules in the articles of association on the number of permitted activities pursuant to Art. 12 para. 1 point 1 OaEC.	Issuers may either provide the information in the CG section or include a reference to their corporate statutes that explicitly states the source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		150
3.4	Elections and terms of office	In accordance with Point 3.4 of the Annex, the CG report must include a description of the procedure for electing members of the board of directors and the regulations governing their terms of office. The purpose of this is to show the possibilities and means for their re-election.		151
	The time of first election to office, and any restriction on term of office, for each member of the board of directors.			152
	Additionally for issuers subject to the OaEC: Any rules in the articles of association that differ from the statutory legal provisions with regard to the appointment of the chairman, the members of the compensation committee and the independent proxy.	Issuers may either provide the information in the CG section or include a reference to its corporate statutes that explicitly states the source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		153
	Additionally for issuers not subject to the OaEC: The principles of the election procedure (specifically the term of office, individual election or election as a group, total renewal or staggered renewal).	Issuers not subject to OaEC may, at least under Swiss law, elect the members of their board of directors <i>in globo</i> rather than individually. The corresponding information on the election process must therefore be provided in the CG section. The same applies to the terms of office for the board members.		154

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
3.5	Internal organisational structure	The purpose of this norm is to foster transparency with regard to the internal organisation and work methods of the board of directors. The following required information should for the most part be obtainable from the board's rules of organisation. If these do not correspond to actual practices, the latter must be disclosed (" substance over form ", cf. Art. 5 as well as N 20 et seq. above).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 43: In this decision, the Admission Board declared that the information on the board's internal organisation should provide investors an overview of the structure of the top management level as well as the board's internal procedures and distribution of responsibilities.	155
		If the issuer would like to include a reference to the rules of organisation, the source (e.g. weblink) is to be explicitly provided in the CG report (cf. Art. 6 as well as N 36 et seq. above).		156
3.5.1	Allocation of tasks within the board of directors.	To be indicated here are the chairman, vice-chairman, delegates of the board of directors and, if such exist, the additional functions of individual board members.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 20: This provision requires the disclosure of information of which board members fulfil the roles of chairman, vice-chairman, any delegates of the board of directors and other functions.	157
3.5.2	Members list, tasks and area of responsibility for each committee of the board of directors.	Issuers subject to OaEC must at least have a remuneration committee, the authorities of which are to be governed by the corporate statutes (Art. 7 (5) OaEC). If the company refers to the corresponding provision in its corporate statutes in this regard, the source must be explicitly stated in the CG report (cf. Art. 6 as well as N 36 et seq. above).	Decision of the Disciplinary Commission dated 18 June 2007 (DK/CG/III/06) , Point 6 et seq.: The company acknowledged that it did not provide a detailed description of the regulations governing the responsibilities and authorities of the committees of the board of directors in its 2005 annual report, which constituted a violation of the reporting obligation pursuant to the provisions of the LR (originally Art. 64 LR , now Art. 49 LR).	158
		The functions of the board committees are to be described in brief as in actual practice the tasks assigned to the various committees may differ from company to company. This information is to be provided for each committee, and care is to be taken to ensure that all of the committees are covered. The actual organisational structure must be disclosed (" substance over form "; cf. Art. 5 as well as N 20 et seq. above, please also refer to notice no. 9/2007 issued by the Admission Board on 26 October 2007 , Point II.).	Decision of the Admission Board Committee dated 23 November 2006 (ZUL-CG-I-06) , Points 21 and 30: All board committees are to be listed in the CG report together with their membership, tasks and delineation of authorities.	159

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		<p>Investors must be able to see what tasks and authorities the board of directors has delegated to a committee, and the extent to which it has done so (please also refer to notice no. 9/2007 issued by the Admission Board on 26 October 2007, Point II.). Specifically, with regard to the principle areas of responsibility, an indication must be made for each such area of responsibility as to:</p> <ul style="list-style-type: none"> - Whether the committee is only acting in an advisory or preparatory capacity - Whether the power to take decisions is subject to the approval of the entire board of directors, or - Whether the committee is vested with the power to take decisions. 	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/II/06) , Point 2: The information provided in the CG report was unclear and contradictory. It also did not comply with the issuer's rules of organisation.	160
3.5.3	Working methods of the board of directors and its committees.	The work methods of the entire board of directors and each individual board committee must be described separately (please also refer to notice no. 9/2007 issued by the Admission Board on 26 October 2007 , Point II.).	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/II/06) , Point 2: The information provided in the CG report was not internally consistent and also did not comply with the issuer's rules of organisation.	161
		Among other things, information should be provided on the usual frequency of meetings (weekly, monthly, quarterly etc.) as well as their average duration. The number of meetings of the entire board of directors and its committees that took place in the year under review must be disclosed as well. It is sufficient if the number of meetings can be derived from the frequency of meetings in the year under review.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 22: Information must be provided on the frequency of meetings as well as the average meeting duration for the entire board of directors and the individual committees.	162
			Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-II/10) , Point 5.2: It is sufficient if the frequency of meetings can be derived from the number of meetings.	163
		A brief description should be given with regard to the interaction between the full board and its committees, as well as the division of authorities.		164
		Information must be provided on whether and how often the entire board of directors or individual committees invited members of the executive committee or external consultants to attend their meetings (please also refer to notice no. 9/2007 issued by the Admission Board on 26 October 2007 , Point II.).	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 7.2 et seq.: The information can be kept relatively general in nature. It is sufficient if investors can gain an impression of how the board of directors operates.	165

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
3.6	Definition of areas of responsibility			166
	Basic principles regarding the definition of the areas of responsibility between the board of directors and the executive committee.	The purpose of Point 3.6 is the disclosure of the extent to which board responsibilities have been delegated to the executive committee.	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 8.2: Rather than details, issuers must disclose information that is material to investors as per Art. 5 . This is the case if the essential features are described and specific information (including figures) is provided for the most important delegated functions.	167
		As in Point 3.5 of the Annex, the actual practices are to be disclosed (" substance over form ", cf. Art. 5 , as well as N 20 et seq. above).	Decision of the Admission Board Committee dated 23 November 2006 (ZUL-CG-I-06) , Points 12 and 17: The actual practices are to be disclosed in terms of the extent to which the board of directors has delegated its authorities to the executive committee. If the board of directors has decided to delegate the management of business to one of its members or the executive committee, this fact must be disclosed in the CG report. In the case of such delegation, it is sufficient to report that the board of directors has delegated the management of business to one of its members or the executive committee. However, if reference is made to rules of organisation or some other body of regulations in connection with the delegation of authority, or if the board of directors implements regulations that limit the delegation again, Art. 6 requires that these regulations must either be easy for investors to access (i.e. quickly and free of charge) or an outline of the regulations must be provided in the CG section.	168
		Those tasks of the board of directors which are non-transferable and irrevocable are set out in Art. 716a CO. It is not necessary or sufficient to repeat Art. 716a CO. Any authorities on the part of the board of directors that are not covered by Art. 716a CO must be listed in the CG report.	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 7.2 et seq.: The (partial) paraphrasing of Art. 716a CO without providing specific details of what are effectively the most important activities is overly general and does not meet the material requirements of the DCG . The issuer did state that the delineation of authorities between the board of directors, its committees, the CEO and group management is specified in detail in the group's competency rules. Referring to other documents is only permitted, however, if investors can access said documents quickly and free of charge. In this case the CG report refers to an internal regulation without providing a source or a direct path. It was therefore found that the information regarding the authorities of the board of directors was deficient.	169

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 14: It is not sufficient to simply restate the list of authorities contained in Art. 716a CO.	170
			Decision of the Admission Board committee dated 10 April 2006 (ZUL-CG-VI-05) , Point 7 et seq.: The tasks that have been delegated to the executive committee must be disclosed. If reference is made to the corporate statutes, the source on the company's web site must be provided (Art. 6). A reference to organisational regulations that are not publicly accessible is not sufficient. In this case the necessary information must be provided in the CG report.	171
		The regulation or distribution of authority between the board of directors and the executive committee must be disclosed.	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/II/06) , Point 3: The information provided in the CG report was not internally consistent and also did not agree with the issuer's rules of organisation.	172
3.7	Information and control instruments vis-à-vis the executive committee			173
	The structure of the board of directors' information and control instruments vis-à-vis the issuer's executive committee, such as internal auditing, risk management systems and management information systems (MISs).	The presentation of the structure of the board of directors' information and monitoring systems with respect to the executive committee is important to market participants in that it allows them to assess the work method and the company's internal control and monitoring systems between the company's executive management bodies (" checks and balances ").	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 24: The CG report must contain details on the structure of the board of directors' information and control instruments with respect to the executive committee. Supervisory and control instruments include information on the existence of any internal audit function, a risk management system or a management information system. As a minimum requirement for the satisfactory publication of information and control instruments, the individual instruments are to be listed and their essential features outlined (e.g. frequency of reporting or meetings).	174
		The purpose of Point 3.7 is to document how the board of directors, the core responsibilities of which include exercising certain control functions within the company (Art. 716a CO), can monitor the responsibilities it has delegated to members of the executive committee.	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/II/06) , Point 4: The CG report did not contain any information on the board of directors' information and control instruments. This constituted a violation of the pertinent regulations.	175
		Information must be provided on each information and control instrument (e.g. the internal audit function, the risk management system and the management information system [MIS]).		176

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		In order to provide a clear description of the essential features of the structure of the information and control instruments, a brief description must be given in each case of the work method (brief description of the instrument [for internal audit functions: the mechanism and structure], the frequency with which it is applied, who the information is addressed to [entire board of directors or committee] and any measures taken on this basis). Among other things, an explanation must be given of the risks registered and how they are dealt with (please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.C., and notice no. 9/2007 issued by the Admission Board on 26 October 2007 , Point II.).		177
4	Executive committee			
	The following information about the issuer's executive committee must be disclosed:			178
4.1	Members of the executive committee			179
	For each member of the executive committee:	The purpose and content of this provision largely correspond to Point 3.1 of the Annex. Thus reference can be made to those specific comments with regard to the purpose (please refer to N 124 et seq. above).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 13: By failing to publish information on the members of the board of directors and the executive committee, the company withheld important information regarding Corporate Governance from its investors, and therefore violated the pertinent provisions. Information on the board members and the executive committee of listed companies is very valuable to investors. The information allows investors to make a better assessment of the company's top management and supervisory functions.	180
		Members of the executive committee are those individuals who hold positions of responsibility at the highest level of management, are normally appointed by the board of directors and answer directly either to the board or the CEO.		181
		Primarily, the person's decision-making authority and not his or her formal title is decisive in this regard (" substance over form "). Therefore, an excessive broadening of the circle of people defined as the executive committee is not permissible in keeping with the principles of clarity and materiality. The concept of "the executive committee" is to be applied uniformly in the CG section (please also refer to Art. 5 as well as N 20 et seq. above).	Decision of the Disciplinary Commission dated 30 September 2004 (DK/CG/I/04), Points 7 and 9: It is clearly not in keeping with the DCG if the concept of the executive committee is expanded to include a body consisting of 58 people. There are no indications suggesting that the DCG would want to register all of a company's managers. The identity and number of people governed by a particular the executive committee body (and organise the production and sale of	182

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			goods) that fulfils the function of managing the group according to the published rules of organisation is not decisive. What is decisive is who belongs to the body itself.	
	a) name, nationality and function;	Aside from the information on each board member required by Point 3.1 lit. a of the Annex, Point 4.1 lit. a also calls for a designation and brief description of the function and organisational position of each member of the executive committee.		183
	b) education and professional background;	The same information must be provided in the CG report as for the members of the board of directors (please refer to N 124 et seq. above).	Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-II/06) , Point 18 et seq.: The main stages of the individual's career history are to be listed.	184
	c) any tasks previously carried out for the issuer or one of the issuer's subsidiaries.	In contrast to Point 3.1 lit. c of the Annex, Point. 4.1 lit. c of the Annex involves no time limitation, however any previous activities of the individual are to be documented in accordance with the principle of materiality (please also refer to Art. 5 as well as N 20 et seq. above).	In accordance with the sanction decision issued by SIX Exchange Regulation on 10 November 2011 (SER-CG-I/11) , Point 48, there is no discretion provided for with respect to the information on the most recent professional training completed.	185
4.2	Other activities and vested interests			186
	For each member of the executive committee:	See comments relating to Point 3.2 of the Annex above with regard to the purpose and content of this norm (please refer to N 141 above).	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 13: By failing to publish information on the members of the board of directors and the executive committee, the company withheld important information regarding Corporate Governance from its current and potential investors. Information on the board members and the executive committee of listed companies is very valuable to investors. The information allows investors to make a better assessment of the quality of the company's top management and supervisory functions.	187
	a) activities in governing and supervisory bodies of important Swiss and foreign organisations, institutions and foundations under private and public law;	See comments relating to Point 3.2 of the Annex above with regard to the purpose and content of this norm (please refer to N 143 et seq. above).		188
	b) permanent management and consultancy functions for important Swiss and foreign interest groups;	See comments relating to Point 3.2 of the Annex above with regard to the purpose and content of this norm (please refer to N 146 et seq. above).		189

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
	c) official functions and political posts.	See comments relating to Point 3.2 of the Annex above with regard to the purpose and content of this norm (please refer to N 148 above).		190
4.3	Additionally for issuers subject to the OaEC:			191
	Rules in the articles of association on the number of permitted activities pursuant to Art. 12 para. 1 point 1 OaEC.	Issuers may either provide the information in the CG section or include a reference to their corporate statutes that explicitly states the source (e.g. weblink) (please also refer to Art. 6 as well as N 36 et seq. above).		192
4.4	Management contracts			193
	Key elements of management contracts between the issuer and companies (or natural persons) not belonging to the group, stating the names and registered offices of the companies, the delegated business management tasks and the form and extent of compensation for the fulfilment of these tasks.	The purpose of this norm is the disclosure of information pertaining to management tasks that have been delegated to third parties. The intention is to create transparency with respect to investors regarding the subject of which people exercise executive management functions within the company and under what conditions (please also refer to notice no. 2/2013 issued by Six Exchange Regulation on 26 August 2013 , Point II.B., in this regard). Management contracts come into play for example in turnaround situations, with companies that are counselled by venture capitalists, and with investment companies.		194
		Understood as being “key elements” in this regard are a characterisation of the representative (name, domicile, field of activity, any relation to the issuer), indication of the tasks that have been delegated, the manner and amount of compensation and the duration/terminability of the given contract.		195
		The key elements of all management contracts must be disclosed. This also applies to cases in which only certain elements of operating management have been delegated to a third party (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013 , Point II.B., in this regard).		196
		A functional perspective is to be applied to the distinction of whether a natural person or legal entity qualifies as a member of the executive committee or an external third party (principle of “ substance over form ”, Art. 5 , please also refer to N 20 et seq. above). This is determined not so much by the title, the contractual basis for the collaboration, the entry in the commercial register or any time limits on the mandate as it is by the actual performance of management functions		197

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		for the issuer (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013, Point B.II.).		
		For issuers subject to OaEC, operating management may only be delegated to natural persons (Art. 6 para. 1 OaEC). Asset management may also be delegated to legal entities (Art. 6 para. 2 OaEC). The complete outsourcing of operating management is likely to be rare for companies subject to OaEC as well. However, this kind of arrangement may not result in a situation in which the issuer is not required to disclose information pursuant to Point 5 of the Annex (compensation, shareholdings and loans), which primarily applies to members of the executive committee and the board of directors. In this case, the information required by Point 5 of the Annex must also be disclosed analogously for people who perform their management activities on the basis of a management contract (please also refer to notice no. 2/2013 issued by SIX Exchange Regulation on 26 August 2013, Point II.B. , as well as N 203 et seq. below).	Decision of the Sanctions Commission dated 8 December 2011 (SaKo-2011-CG-I/11) , Points 16 et seq. and 21 et seq.: If the issuer does not only outsource certain elements but rather the full extent of operating management, the criteria for which must be disclosed in the case of natural persons (Point 5.1), the issuer cannot avoid the obligation to disclose the criteria for determining the fees paid to said legal entity or to declare that the amount is at the board of directors' discretion. The principle of " substance over form " also applies in this case.	198
		In accordance with Art. 6 para. 2 OaEC, the management of assets may only be delegated to legal entities. This provision is relevant for investment companies. This provision implicitly allows them to continue delegating operating management functions to legal entities. In the event of such delegation, however, they must provide the same information in the CG report as they would have under the law that was in effect before OaEC entered into force (please refer to N 202 above).		199
5	Compensation, shareholdings and loans			
	The following information is to be disclosed with regard to compensation paid to and shareholdings of the members of the issuer's board of directors and executive committee, as well as loans granted to those individuals:		Decision of the Sanctions Commission dated 8 December 2011 (SaKo 2011-CG-I/11) , Point 20 et seq.: Point 3 et seq. of the Annex describes what is meant by "board of directors" and "the executive committee". Point 5 of the Annex also requires information on organisational circumstances in which an issuer makes use of legal entities rather than natural persons. If the issuer does not only outsource certain elements/management functions but rather the full extent of operating management, the criteria for which must be disclosed in the case of natural persons (Point 5.1 of the Annex), the issuer must disclose the criteria for determining the fees paid to said legal entity or to declare that the amount is at the board of directors' discretion.	200

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
5.1	Content and method of determining the compensation and the shareholding programmes			201
	Basic principles and elements of compensation and shareholding programmes for serving and former members of the issuer's board of directors and executive committee, together with a description of the authorities and procedure for determining such.	The purpose of the DCG is to ensure the adequate disclosure of certain information in the issuer's annual report. However, it does not impose any requirements regarding the issuer's Corporate Governance. This also applies with respect to the issuer's compensation models (please also refer to notice no.6/2010 issued by the Regulatory Board on 24 November 2010 , Point I.).	The sanction decision issued by SIX Exchange Regulation on 10 November 2011 (SER-CG-I/11) , Point 42, states that Point 5.1 of the Annex does not require the introduction of a particular compensation process or impose any other requirements on the structure of the process for determining the amount of compensation paid. The DCG merely requires the situation in effect to be disclosed in a way that is accurate and comprehensible. The information that is material to investors must be provided.	202
		The purpose of Point 5.1 of the Annex is the disclosure of the responsibilities and procedures involved in determining the compensation and share ownership programmes for board members and senior managers, as well as the principles and elements of compensation and share ownership programmes, in a manner as transparent and comprehensible as possible (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point I.). The comments must be structured so as to allow investors to gain a clear impression of the process's architecture and mechanism (cf. Art. 5 as well as N 20 et seq. above).	Decision of the Sanctions Commission dated 8 December 2011 (SaKo 2011-CG-I/11) , Point 16: The principle of " substance over form " also applies to disclosure in accordance with Point 5.1 of the Annex.	203
		Among other things, the disclosure of the remuneration arrangements should allow market participants to assess whether the chosen compensation model is appropriate in terms of the performance incentives offered. They must be able to identify the reasons for changes in compensation over the course of the financial year. As part of this retrospective disclosure (the CG report must provide a comprehensible description of the structure of the compensation system in the past financial year), the information provided should also indicate why compensation fell or rose in the year under review in comparison to the preceding year (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010 , Point I.).		204
		In the case of a group, the provisions of Point 5 pertain only to the board of directors of the listed (holding) company and the executive committee of the group, and thus not to the board members and senior managers of subsidiaries.		205

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Hybrid or unconventional compensation schemes are to be subsumed and described under Point 5 of the Annex. In assessing such schemes, their economic substance is to be given priority over their legal form (“ substance over form ”, cf. Art. 5 as well as N 20 et seq. above).		206
		With respect to providing an accurate description of the compensation system, it may be advisable to disclose the relevant information for non-executive members of the board of directors and for the executive members of the board of directors and members of the executive committee separately (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010 , Point II.).		207
		The pertinent provisions of the DCG apply equally to all issuers provided they essentially fall within the scope of the DCG (cf. Art. 3 as well as N 11 et seq. above). With respect to the applicability of the DCG , the structure of a particular compensation system and the amount of compensation paid to members of the board of directors and the executive committee are immaterial (please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.A.).	The decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 8.3 states that discussions and agreements with FINMA or the auditors in relation to compensation systems or the concrete setting of compensation levels do not release issuers from their disclosure obligations in accordance with the DCG .	208
		In contrast to Art. 663b ^{bis} CO and Art. 13 et seq. OaEC, Point 5.1 of the Annex does not require the disclosure of the amount of compensation paid out, but rather the way in which this amount is determined.	Sanction decision of SIX Exchange Regulation dated 10 November 2011 (SER-CG-I/11) , Point 44: “Die gemäss Obligationenrecht erforderliche Bekanntgabe der Zahlen ersetzt die von Ziff. 5.1 Anhang verlangte Offenlegung des Festsetzungsverfahrens nicht.”	209
		SER is not responsible for checking the compliance of Swiss stock corporations with the provisions of Art. 663b ^{bis} CO or Art. 13 et seq. OaEC. If, however, the company does not have its registered offices in Switzerland or in the case of a legal entity domiciled in Switzerland but not subject to the pertinent provisions of CO or OaEC, the amount of compensation must be disclosed in the CG report as with Art. 14 et seq. OaEC. In this case, SER checks whether the compensation was disclosed in accordance with regulations (cf. Point 5.3 of the Annex, please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.B.).		210
		The more complex the compensation and share ownership programmes are structured, the more extensive and detailed their disclosure must be.		211

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		If the information on the basic principles and elements, the procedure, or the responsibilities for individual members of the board of directors or the executive committee differs considerably from other members, the information on these individual members must be explained separately.		212
		References to other sections of the annual report that contain the information required in accordance with Point 5.1 of the Annex are permitted. Specifically, the CG report may include references to the remuneration report (cf. Art. 6 as well as N 36 et seq. above).		213
		In connection with the question of responsibility and the procedure for determination , an outline of the relevant procedure(s) for determination must be provided. Information must also be provided on the decision-making bodies involved (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012 , Point II.A., notice no. 8/2010 issued by SIX Exchange Regulation on 17 August 2010 , Point II.A., and notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.A.).	Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 24, as well as the decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 18: With respect to the responsibilities and the procedure, information is to be provided on which body or committee has the authority to set the compensation and share ownership programmes of the board of directors and the executive committee, as well as an outline of the essential features of the procedure for determination.	214
		Specifically, the following information must be disclosed:		215
		– Which involved body (board of directors, compensation committee etc.) has which authorities in connection with the setting of compensation and the share ownership programmes. This means that information is to be provided on whether the body merely acts in an advisory or preparatory capacity, or whether it has decision-making authority (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012 , Point II.A., and notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.A.).		216
		– Whether external advisors are consulted on the determination of the compensation and share ownership programmes, and whether these advisors have been awarded additional mandates by the issuer.		217
		– Whether and how often the compensation committee informs the entire board of directors about the progress of the determination procedure and compensation process if it is not the entire board of directors that determines the compensation and share ownership or the corresponding agenda items for the annual general meeting. In the case of issuers subject to OaEC, the annual general meeting has certain non-transferable au-		218

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		<p>thorities in this respect (Art. 2 OaEC). There is no need to make explicit reference to this fact. In accordance with Art. 7 para. 5 OaEC, the corporate statutes must contain information on the duties and responsibilities of the compensation committee. The CG section may contain a reference to the corporate statutes in this regard (cf. Art. 6 as well as N 36 et seq. above).</p>		
		<ul style="list-style-type: none"> Whether the compensation and share ownership programmes are determined by the relevant bodies once or periodically (and at what intervals). 	<p>Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06), Point 24 as well as the decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05), Point 18: With respect to the principles of the compensation and the share ownership programmes, information must be provided on whether they are determined periodically or just once.</p>	219
		<ul style="list-style-type: none"> Whether the members of the board of directors and the executive committee about whose compensation and share ownership programmes a decision is being taken by the competent body have the right to attend the relevant meetings of that body as well as a right to a say in decisions. 		220
		<p>The basic principles include in particular the following information:</p>		221
		<ul style="list-style-type: none"> Explanations regarding the breakdown (i.e. allocation) of stocks or options that are assigned to members of the board of directors and/or the executive committee as part of their compensation. 	<p>Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10), Point 9.8: With respect to the stock option plan for the executive committee, an issuer stated the following in its CG report: "Each year, senior managers receive stock options with a maturity of five years. The number of stock options depends on the respective management grade according to the Watson/Wyatt Global Grading System. These options are vested upon issue, one-third of them subsequently becoming eligible for exercise each year. The conversion ratio is 1:10 but only cash can be paid out for options granted since 2006." No further explanations of the system were provided. There was no specific indication of how the plan was implemented. These comments proved insufficiently detailed as there were no references to targets, components etc.</p>	222
		<ul style="list-style-type: none"> Whether a new member of the board of directors or the executive committee received special compensation ("<i>golden handshake</i>") upon joining the company. If this is the case, this should also be mentioned in the CG report (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012, Point II.A., please also refer to N 203 et seq.). 		223

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		<ul style="list-style-type: none"> Whether any agreements have been entered into regarding payments or other benefits that have been or are to be provided to members of the board of directors and the executive committee of issuers that are not subject to OaEC upon their departure from the company. This includes agreements regarding special periods of notice for termination or contracts with long terms (in excess of 12 months), the elimination of blocking periods for stocks and options, the reduction of the vesting period or additional contributions to the company pension (cf. Point 7.2 of the Annex as well as N 296 et seq. below). 		224
		<ul style="list-style-type: none"> This information must be included in the CG report even if it only relates to individual members of the top executive bodies. The people in question do not have to be referred to by name. 		225
		<ul style="list-style-type: none"> A duty of disclosure also applies if the conditions and benefits in question were not agreed in advance but were instead granted in the year under review when the member of a body left the company. 		226
		<ul style="list-style-type: none"> If these kinds of agreements also apply in the event of a change of control, the corresponding information must also be provided in the comments pursuant to Point 7.2 of the Annex, although the issuer is at liberty to use references (cf. Art. 6 as well as N 36 et seq. above, please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012, Point II.B., and notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II.A.4.). 		227
		<ul style="list-style-type: none"> Which goals are taken into account when structuring compensation and share ownership programmes (e.g. turnover and revenue goals, personal performance goals). The relevant numbers should be explained in a way that is comprehensible to the reader. 	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 18 : The variable criteria are to be described in greater detail.	228
		<ul style="list-style-type: none"> Which other components are taken into account (changes in the share price etc.). 		229
		<ul style="list-style-type: none"> If benchmarks are used, their details or composition are to be described in brief (e.g. changes in the company's share price in comparison to an index or competitors etc.; please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012, Point II.A., and notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II.B.2.). 		230

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		<ul style="list-style-type: none"> If the compensation paid out by other companies is used for the purpose of comparison (pay comparisons), the specific names of the companies ("peers") are to be provided or they are at least to be described (e.g. by providing information such as the sector/nature of business, size/economic significance and the geographic area in which the companies in question operate). Terms such as "international companies" or "companies of a similar size" are not sufficient (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012, Point II.A., notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II.A.1, and notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009, Point II.A.). 	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 8.2: References in the CG report to "benchmark and pay comparisons for the financial services and banking sector" that are regularly used as the basis for assessments, and statements regarding the compensation of senior managers that they receive a "basic salary that is in line with market practice" in addition to a bonus, are overly general in nature. They do not allow investors to gain a clear impression of the criteria for setting compensation. Specifically, the reference to a basic salary that is in line with market practice is overly general in nature.	231
		<ul style="list-style-type: none"> If reference is made to the typical market conditions (reference markets), the market in question and its underlying conditions are to be described in more detail (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II.A.2.). 	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 9.2 et seq.: If reference is merely made to "market conditions" in connection with the criteria for measuring compensation, it is not clear what is meant by this.	232
			Decision of the Sanctions Commission dated 30 November 2010 (SaKo 2010-CG-IV/10) , Point 29: Using the phrase "in line with market practice" is not sufficient as it cannot be assumed that the reader is familiar with this practice.	233
			Decision of the Sanction Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 8.2 et seq.: The phrase "basic salary that is in line with market practice" must be described in more detail.	234
		<ul style="list-style-type: none"> What forms of compensation (basic salary, additional remuneration such as variable compensation or bonus models etc.) exist and whether they are fixed or variable. 	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 18 and the decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 24: With respect to the elements, information should at least be provided on whether the compensation only comprises a fixed component or also includes a variable portion.	235
		<ul style="list-style-type: none"> Whether, and if so, which criteria are used to set fixed and variable compensation. 	Decision of the Sanctions Commission dated 28 October 2010 (SaKo 2010-CG-III/10) , Point 4.5 et seq.: The criteria (performance targets) and their weighting must be described. If the issuer omits this information from the CG report, it must explicitly explain why in the report (principle of "comply or explain"). The investors must be able to gain a clear impression of the criteria for setting compensation. The	236

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			Sanctions Commission found that it is not enough to simply state that the amount of the performance-based component depends on the operating result.	
			Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 9.1 et seq.: Certain information must be provided on the weighting of various criteria in connection with the allocation of options in connection with share ownership programmes. It must also be made clear whether the salary components are fixed or variable.	237
			Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010 CG-I-10) , Point 8.3: The issuer did not disclose the individual targets in connection with the setting of bonuses for the executive committee or the weighting of the individual targets in connection with the setting of bonuses. This constituted a violation of the pertinent provisions.	238
			Decision of the Admission Board dated 29 November 2005 (ZUL-CG-V-05) , Point 18: Information must be provided on the nature of the salary components (fixed, variable). The criteria used are to be described in greater detail.	239
			Decision of the Sanctions Commission dated 28 October 2010 (SaKo 2010-CG-III/10) , Point 4.6: The investors must be able to gain a clear impression of the criteria for setting compensation. It is not enough to simply state that the amount of the performance-based component depends on the operating result.	240
		- Discretionary decisions must be explicitly disclosed (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010 , Point I. as well as SIX Exchange Regulation notices no. 2/2013 dated 26 August 2013 , Point II.C. no. 2/2012 dated 23 July 2012 , Point II.A.; no. 3/2011 dated 23 August 2011 , Point II.A.; no. 8/2010 dated 17 August 2010 , Point II.A., and no. 4/2009 dated 11 August 2009 , Point II.A.).	Decision of the Sanctions Commission dated 8 December 2011 (SaKo 2011-CG-I/11) , Point 14: If the determination is based on a discretionary decision of the competent decision-making body, this fact must be explicitly stated in the CG report.	241
			Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 24: Discretionary decisions must be explicitly disclosed.	242
			Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/II/06) , Point 14: The CG report must state if remuneration is set on the basis of a discretionary decision.	243

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			Sanction decision of SIX Exchange Regulation dated 10 November 2011 (SER-CG-I/11) , Point 36: Discretionary decisions with regard to compensation must be clearly disclosed.	244
		– If both fixed and variable compensation is paid out, the ratio between the fixed and variable components of compensation must be set out. It is sufficient to state a range or a maximum value (e.g. “the variable remuneration paid out to senior managers ranged from 50 to 150 percent of the fixed pay component” (please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.A.; and notice no. 6/2010 issued by the Regulatory Board on 24 November 2010 , Point II.A.3.).	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 9.3 et seq.: The comments in the company’s CG report that “Base salaries and annual bonus on target level (target compensation) reflect the market median level for the respective positions, individual qualifications and prevailing local labor market conditions” were too brief. Information on the actual markets and companies used for comparison would have been more adequate. The mention that three consultants were involved in the regular adjustment of the salary range also did not meet the requirements of Point 5.1 of the Annex, which requires information to be provided on the chosen benchmarks and salary comparisons. When stating the criteria for measuring compensation, information is to be given on what weightings are assigned to which factors and whether the statement relates to both the fixed and variable components. It is not, however, necessary to provide details of the rules for calculating compensation.	245
			Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 9.2 et seq.: The ratio between fixed and variable compensation is to be clearly disclosed.	246
		– If different regulations apply to individual members of the board of directors or the executive committee, this must be disclosed separately (please also refer to tice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.A. and notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.A.).	Sanction decision issued by SIX Exchange Regulation on 10 November 2011 (SER-CG-I/11) , Point 39: If criteria are used to set compensation, comments regarding responsibility, target achievement and time spent working in themselves do not give any indication regarding the underlying considerations that led to compensation being set at a particular level (e.g. salary comparisons or reference markets).	247
			Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 24: With respect to any variable component, information must at least be provided on which factors this variable component depends on, such as revenue or profit, and objective or personal goals. Information must also be provided on whether a portion of compensation can be received as stocks or options. The allocation criteria, blocking periods and other possible information must also be disclosed. If stocks are allocated at the discretion of the board of directors, this must also be mentioned.	248

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
			Decision of the Sanctions Commission dated 28 October 2010 (SaKo 2010-CG-III/10) , Point 4.6: The investors must be able to gain a clear impression of the criteria for setting compensation. It is not enough to simply state that the amount of the performance-based component depends on the operating result.	249
			Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010 CG-I-10) , Point 8.3: The company did not disclose the individual targets in connection with the setting of bonuses for the executive committee or the weighting of the individual targets. It should have disclosed the weighting of the individual targets in connection with the setting of bonuses for the executive committee.	250
			Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 18: The individual factors in the determination of variable remuneration must be disclosed.	251
		<ul style="list-style-type: none"> - If criteria are used to set compensation, certain information must be provided on these criteria and their weighting. If complete discretion is used in the weighting of the criteria, the explanations of the criteria must include a reference to this fact (please also refer to notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II.B.1., and notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011, Point II.A.). 	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 8.3: The issuer should have disclosed the weighting of the individual targets in connection with the setting of bonuses for the executive committee.	252
		<ul style="list-style-type: none"> - If personal performance targets are used as criteria for setting remuneration, unlike the individual targets these do not have to be disclosed (notice no. 6/2010 issued by the Regulatory Board on 24 November 2010, Point II. B.1.). 		253
5.2	Disclosures from issuers subject to the OaEC:			254
5.2.1	Rules in the articles of association on the principles applicable to performance-related pay and to the allocation of equity securities, convertible rights and options, as well as the additional amount for payments to members of the executive	The issuer may either state the relevant statutory requirements in the CG report or include a reference to the provisions in question stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above). If the issuer summarizes the content of the relevant articles of association in the CG report, it must be ensured that all essential information is contained in the summary (cf. Art. 5 as well as N 20 seq. above).		255

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
	committee appointed after the vote on pay at the general meeting of shareholders.			
5.2.2	Rules in the articles of association on loans, credit facilities and post-employment benefits for members of the board of directors and executive committee.	The issuer may either state the relevant statutory requirements in the CG report or include a reference to the provisions in question stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above). If the issuer summarizes the content of the relevant articles of association in the CG report, it must be ensured that all essential information is contained in the summary (cf. Art. 5 as well as N 20 seq. above).		256
5.2.3	Rules in the articles of association on the vote on pay at the general meeting of shareholders.	The issuer may either state the relevant statutory requirements in the CG report or include a reference to the provisions in question stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above). If the issuer summarizes the content of the relevant articles of association in the CG report, it must be ensured that all essential information is contained in the summary (cf. Art. 5 as well as N 20 seq. above).		257
5.3	Disclosures from issuers not subject to the OaEC:			258
	Remuneration report in keeping with Arts. 14 to 16 OaEC. Disclosures on pay for members of the board of directors and executive committee, in keeping with Arts. 14 to 16 OaEC (remuneration report), which may be listed in the remuneration report.	Issuers with no registered offices in Switzerland or issuers domiciled in Switzerland that are not subject to Art. 663b ^{bis} CO or OaEC (certain cantonal banks, for example, please refer to N 100 et seq. above) are never subject to the provisions of Art. 663b ^{bis} CO or the provisions of OaEC. In order to still provide the relevant information to investors, these issuers must disclose the amounts of compensation paid out in the CG report as required by Art. 14 - 16 OaEC. In this case, SER checks whether the compensation was disclosed in accordance with regulations (cf. Point 5.3 of the Annex, please also refer to notice no. 3/2011 issued by SIX Exchange Regulation on 23 August 2011 , Point II.B.). The provisions of Art. 958d para. 2 OR may not be observed.		259
		The company must base the individual items of information to be disclosed on the practice that has developed with respect to the contents of the remuneration report in accordance with the pertinent provisions of OaEC.		260

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Compensation in the form of monetary payments should preferably be stated gross (compensation before deduction of employee social security contributions), since investors are essentially interested in the overall volume of remuneration from the issuer's perspective.		261
		Compensation is to be disclosed in accordance with the "accrual principle". Pursuant to this internationally applied accounting principle, expenditures are to be accrued in a period-compliant manner. Such periodic accruals are independent of the actual payment flows that occurred during the reporting period. It follows that compensation is not accounted for at the time it is received or transferred, but rather allocated to the specific periods to which they are attributable in economic terms. If, for example, a company paid members of the executive committee in 2015 for bonuses they effectively earned for their performance in the 2014 financial year, then those bonus payments must be disclosed in the Corporate Governance section of the 2014 annual report provided that they were known or at least could be estimated on the balance sheet date of that report. Exceptions to the accrual principle are permissible in justified cases (e.g. in the case of individual disclosure). In such cases, the method that has been applied must be explained.		262
		Compensation in kind that does not include shares or options (including fringe benefits) is to be calculated according to their fair value. Fair value can be determined by applying the market value or, lacking such, by calculating a theoretical value using a model. Market value in this regard is the amount that could be obtained through a purchase or sale made in an active market. In exceptional situations involving small-scale compensation, the fiscal value may be used as the basis for calculating fair value. The method used for the calculation of the theoretical value must be disclosed.		263
6	Shareholders' participation rights			
	The following information on the participation rights of the issuer's shareholders must be disclosed:			264
6.1	Voting rights restrictions and representation			265
6.1.1	Rules in the articles of association on restrictions to voting rights, along with an	Should it be the case that the articles of association provide for a percentage limit on the number of registered shares that may be owned by any given party (cf. percentage		266

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
	indication of group clauses and rules on granting exceptions, as well as exceptions actually granted during the year under review.	clause in accordance with Point 2.6.1 of the Annex as well as N 108 above) or some other limitation on voting rights, the following information must be provided: <ul style="list-style-type: none"> – The percentage limit or details of the other limitation on voting rights; – the rules for granting exceptions; – and the actual exceptions granted during the year under review, if applicable. 		
		If the articles of association include a group clause (please also refer to Point 2.6.1 of the Annex as well as N 111 above), it suffices to provide the information that such a clause exists. Publication of its precise wording is not necessary. A direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		267
6.1.2	Additionally for issuers not subject to the OaEC:			268
	Disclosures on restrictions to voting rights and rules on granting exceptions for institutional proxies, as well as exceptions actually granted during the year under review.	Should it be the case that the articles of association provide for a percentage limit on the number of registered shares that may be owned by any given party (cf. percentage clause in accordance with Point 2.6.1 of the Annex) or some other limitation on voting rights, the following information must be provided: <ul style="list-style-type: none"> – The percentage limit or details of the other limitation on voting rights – The rules governing the granting of exceptions, in favor of institutional investors in particular – The actual exceptions granted during the year under review, if applicable. 		269
		Since institutional investors can be permissible on a larger scale for companies that are not subject to OaEC, any information in this regard must be provided (please also refer to N 154 above).		270
		If the articles of association include a group clause (please also refer to Point 2.6.1 of the Annex), it suffices to provide the information that such a clause exists. Publication of its precise wording is not necessary. A direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		271
6.1.3	Reasons for granting exceptions in the year under review.	The reasons for the exceptions from voting right limitations actually granted must be disclosed to investors in a way that is clearly comprehensible.		272

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
6.1.4	Procedure and conditions for abolishing voting rights restrictions laid down in the articles of association.	The procedure and requirements for eliminating statutory limitations on voting rights must be briefly described, together with an indication of the necessary quorum. A direct reference to the articles of association may also be made, stating the exact source (cf. Art. 6 as well as N 36 et seq. above).		273
6.1.5	Rules in the articles of association on participation in the general meeting of shareholders, if they differ from the statutory legal provisions.	Pursuant to Art. 689 para. 2 CO, all shareholders may either represent their shares in person at the issuer's general meeting or have them represented by the proxy of their choice. However, the issuer's articles of association may provide for restrictions in this regard. If such restrictions exist, they must be disclosed (in the form of a summary if necessary). Alternatively, a direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		274
6.1.6	Additionally for issuers subject to the OaEC:			275
	Information on any rules which might be laid down in the articles of association on the issue of instructions to the independent proxy, and any rules in the articles of association on the electronic participation in the general meeting of shareholders.	If the articles of association contain provisions regarding the issuing of instructions to independent voting right representatives or electronic participation, these must be disclosed in the CG report. Alternatively, a direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).		276
6.2	Quorums required by the articles of association			277
	Resolutions of the general meeting of shareholders which, under the issuer's articles of association, can only be carried by a majority greater than that required by the statutory legal provisions, along with an indication of the size of the majority for each case.	Pursuant to Art. 703 CO, resolutions of the general meeting of shareholders are generally passed by an absolute majority vote of the shares represented at the meeting. Exceptions in this regard are the resolutions indicated in Art. 704 CO, for which a minimum of two-thirds of the represented shares and an absolute majority of the represented par value of such shares are required. However, the issuer's articles of association may contain divergent rules. Point 6.2 of the Annex requires disclosure of deviating statutory rules. Alternatively, a direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (please also refer to Art. 6 in this regard, as well as N 36 et seq. above).		278
		If the issuer is a company without registered offices in Switzerland or a Swiss issuer that is not subject to CO, analo-		279

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		gous information is to be provided insofar as the applicable provisions of the law are deviated from.		
6.3	Convocation of the general meeting of shareholders			280
	Rules in the articles of association on the convocation of the general meeting of shareholders, if they differ from the statutory legal provisions.	The convocation of a general meeting of shareholders is governed by Art. 699 et seq. CO. Pursuant to Point 6.3 of the Annex, the issuer's statutory rules on convening the general meeting of shareholders must be disclosed if they deviate from the provisions of the law in accordance with Art. 699 et seq. CO. Alternatively, a direct reference to the articles of association may also be made, stating the exact source (e.g. weblink) (cf. Art. 6 , as well as N 36 et seq. above).		281
6.4	Inclusion of items on the agenda			282
	Rules for adding items to the agenda of the general meeting of shareholders, particularly with regard to time frames and deadlines.	The modalities for adding an item to the agenda for deliberation at the general meeting of shareholders are to be described.	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG//06) , Point 6: The CG report did not contain any information in this regard. This constituted a violation of the pertinent regulations.	283
		The modalities must be described in the CG report even if they do not diverge from the applicable legal provisions . One of the purposes of this disclosure obligation is to inform investors who are unfamiliar with the applicable company law (e.g. Swiss stock corporation law) about the modalities of implementation.		284
		If the issuer is a company without registered offices in Switzerland or a Swiss issuer that is not subject to CO, analogous information is to be provided regarding the law for adding items to the agenda.		285
6.5	Entries in the share register			286
	Rules governing the deadline for the entry of registered shareholders in the issuer's share register in view of their participation in the general meeting of shareholders, as well as any rules on the granting of exceptions.	If the articles of association or some other document contain a pertinent provision, this must be disclosed in the CG report. Alternatively, a direct reference may be made to the document, stating the exact source (e.g. weblink) (cf. Art. 6 as well as N 36 et seq. above).	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG//06) , Point 7: The CG report did not contain any information in this regard. This constituted a violation of the pertinent regulations.	287

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		If there is no regulation to be found in the articles of association or any of the company's other documents, information must be provided on how the date is determined.		288
		The date on which the share register is closed must be reported to SER using the "Connexor Reporting" electronic reporting tool as soon as it has been set (please refer to Art. 9 Point 3.02 DRRO).		289
7	Changes of control and defence measures			
	The following information on changes of control and defence measures must be disclosed:			290
7.1	Duty to make an offer			291
	Rules in the articles of association on opting-out (Art. 125 para. 3 and Art. 4 FMIA) and opting-up (Art. 135 para. 1 FMIA), stating the percentage threshold.	The purpose of this provision is to reveal to investors whether a major shareholder would, upon reaching the legally prescribed threshold (Art. 135 para. 1 FMIA: 33 ¹ / ₃ % of the voting rights), be required to make a public tender offer for the issuer or if the issuer has raised that limit in its statutes (" opting-up " [Art 135 para. 1 FMIA]), or if it has waived the duty of a potential acquirer to make such a full tender offer on the basis of its statutes (" opting-out " [Art 125 para. 3 and para. 4 FMIA]).		292
7.2	Clauses on changes of control			293
	The content of change-of-control clauses included in agreements and schemes benefiting members of the board of directors and/or executive committee, as well as other members of the issuer's management.	The purpose of this provision is to indicate to market participants whether agreements or plans for the benefit of the company's management (members of the board of directors, the executive committee and other executives) include "change of control" clauses. It covers people who hold key functions within the company, although the people in question do not need to be referred to by name (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012 , Point II.B.).	Decision of the Admission Board committee dated 10 April 2006 (ZUL-CG-VI-05) , Point 17 et seq.: The company may not opt against disclosing the content of change of control clauses citing business secrecy as the reason (Art. 7, "comply or explain").	294
		Clauses on changes of control are usually characterised by the fact that agreed financial or other consequences are triggered by a change of control.		295
		It is necessary to disclose whether and to what extent the people in question are "protected" by contractual provisions against (hostile) takeovers. This information should allow market participants to judge whether an acquisition triggers		296

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		particular obligations with respect to the members of upper management. Since certain forms of compensation in the event of departure ("golden parachutes") and long periods of notice are essentially prohibited by OaEC, these can only arise as an issue for issuers that are not subject to OaEC (please also refer to N 224 above). Information must be provided on special provisions to dissolve contractual relationships, agreements relating to special periods of notice or contracts with long terms (more than 12 months), the absence of blocking periods for options, reductions in the vesting period, additional contributions to pension funds etc. (please also refer to notice no. 2/2012 issued by SIX Exchange Regulation on 23 July 2012 , Point II.B.). This information allows market participants to assess the independence of the members of the issuer's governing bodies as well as its other executive managers.		
		Clauses on changes of control must be described in the CG report so that investors can estimate the compensation payments to be made by the issuer. To this end, the calculation bases of the relevant calculations must be declared openly (e.g. the number of annual salaries to be paid per executive function).		297
8	Auditors			
	The following information on the auditors must be disclosed:	The purpose of the disclosure obligations pursuant to Point 8 of the Annex is to allow investors to draw a conclusion on whether the company auditors or, in the case of a group, the group auditors, could be influenced in their decision-making by the term of office and/or amount of compensation they are granted for their services. In addition, a description of how the board of directors and auditors work together should be provided.		298
8.1	Duration of the mandate and term of office of the lead auditor			299
8.1.1	Date of assumption of the current audit mandate.	Deemed to be the date of assumption of the existing auditing mandate is the year in which the auditors or, as the case may be, the group auditors are formally elected (Art. 730a CO). Alternatively, the precise date on which the auditors (or group auditors) were entered into the commercial register may be disclosed.	Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Point 35 et seq.: The CG report did not contain the necessary information in this regard. This constituted a violation of the pertinent provisions of the DCG .	300
8.1.2	Date on which the lead auditor responsible for the current audit mandate took up office.	Deemed to be the lead auditor is the individual who bears responsibility for the audit or, as it were, group audit.		301

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		Information should also be provided on how regularly the lead order or auditing firm is changed, if at all. The purpose of the information on the issuer's Corporate Governance is to provide better information to investors. Specifically, this also applies to (foreign) market participants who are unfamiliar with the applicable provisions of the Code of Obligations. The frequency with which the lead auditor is rotated should therefore be mentioned even if it is the maximum statutory period of seven years for companies with registered offices in Switzerland (please refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C., in this regard).		302
8.2	Auditing fees			303
	The total auditing fees charged by the audit firm in the year under review.	Fundamentally, only the fees paid to the company auditors as remuneration for the performance of their legally prescribed duties are to be qualified as auditing fees in accordance with Point 8.2 of the Annex (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).	As part of an authentic interpretation , the former Admission Board of SWX Swiss Exchange decided at its meeting on 11 November 2002 that the audit expenses calculated for each period are to be reported as the total auditing fees in accordance with the financial accounting .	304
		By way of example, the following elements are to be taken into account in disclosing the total amount of auditing fees:		305
		1. Auditing fees for the audit of the consolidated financial statements: That amount also includes the fees paid to the group auditor for auditing individual financial statements required for the overall consolidation (e.g. consolidation forms) of subsidiaries.		306
		2. The following audit fees are also to be taken into account: <ul style="list-style-type: none"> - Those of the group auditors for the legally prescribed audit of the individual company accounts of the holding company and its consolidated subsidiaries (in the case of a group structure). - Those of the external auditors for the audit of the individual company accounts prepared in accordance with CO as well as the individual company accounts prepared in accordance with an accounting standard that is recognised by SIX Swiss Exchange (e.g. Swiss GAAP FER, IFRS [formerly IAS] or US GAAP), if the listing company is not the holding company. 		307
		3. Auditing fees paid to specialists (tax experts, insurance actuaries, real estate evaluators, legal consultants etc.).		308

Point	DCG	Explanatory notes SIX Exchange Regulation	Sanctions Commission/Board of Arbitration practice	Note (N)
		4. Auditing fees paid for work conducted by the external auditors by virtue of a legal obligation imposed by supervisory authorities (e.g. FINMA).		309
8.3	Additional fees			310
	The total fees charged in the year under review by the audit firm and/or its related parties for additional services (e.g. management consulting) performed for the issuer or one of the issuer's subsidiaries, stating the nature of such additional services.	If, in addition to the performance of the audit per se, the external auditors provide other services for the issuer, the corresponding payments must also be disclosed (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 10.4: The Sanctions Commission came to the conclusion that because the volume of fees paid for "audit" and "non-audit" services were similar, the comments in the CG report were too brief and therefore required explanation.	311
		Information on non-audit services can be informative with respect to the question of the (group) auditors' independence, or regarding potential conflicts of interest.		312
		The total amount must be broken down into its main components (e.g. tax advice, legal advice, transaction advice [including due diligence]). General wordings such as "advisory services" do not suffice because they are devoid of meaning (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).		313
		To be disclosed as additional fees are, in particular, consulting fees (e.g. for corporate, IT, tax and legal consulting) that have been charged by the auditors and their related parties.		314
		Any fees paid for due diligence services (audits etc.) are to be considered "additional fees" because <i>due diligence audits</i> are not associated with a specific legal obligation and conducting them is not a mandatory task of the (group's) auditors.		315
		Any fees for extraordinary audits are also to be considered additional fees because external auditors are not required by the Swiss Code of Obligations to conduct extraordinary audits.		316
8.4	Information instruments pertaining to the external audit			317
	A description of the instruments available to the board of directors that assist its members in obtaining infor-	The comments regarding the instruments available to provide information on the activities of external auditors must be structured in a way that allows investors to draw conclusions about the extent to which the board of directors obtained	Decision of the Sanctions Commission dated 8 December 2011 (SaKo 2011-CG-I/11) , Point 23: The CG report did not contain any information on the structure of the instruments used by the board of directors to obtain information	318

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	mation on the activities of external auditors. This includes, in particular, the means by which the auditing body reports to the board of directors, as well as the number of meetings the board of directors as a whole or audit committee has held with the external auditors.	information on the auditing firm's activities during the relevant financial year and dealt with their performance. For this reason, the information provided should include details of the criteria used by the board of directors to assess the auditors' performance and the fees paid for the audit services provided (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).	on the external auditors' activities. This constituted a violation of the pertinent provisions of the DCG .	
		Examples of supervisory and control instruments (not exhaustive): <ul style="list-style-type: none"> - Description of the reporting of the external auditors to the board of directors or the audit committee (frequency and form of reporting); - Number of meetings of the audit committee or the entire board of directors in which the external auditors participated; - Number of meetings of the audit committee or the entire board of directors with the internal auditors; - Selection procedure (proposal process) and selection criteria for determining the external auditors; - Criteria for assessing the performance, payment (amount, decision-making authority) and independence of the auditors; - Assessment of additional non-audit services (admissibility, scope, proportion to the auditing fee, prohibited list etc.). 	Decision of the Sanctions Commission dated 30 July 2010 (SaKo 2010-CG-II/10) , Point 10.2: The Sanctions Commission points out that the commentary (now: guideline) on the DCG contains references to or examples of instruments that must be disclosed if they are used. However, according to the Commission it is not possible to provide an exhaustive list of criteria.	319
			Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 9.2: The issuer is under no obligation to list the criteria used to assess the auditors' activities.	320
		If new auditors have been appointed to audit the financial statements, it would be necessary to explain why the change was made (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).	Decision of the Disciplinary Commission dated 18 June 2007 (DK/CG/III/06) , Point 5: Although the issuer had a "Charter of the Audit Committee", the annual report only mentioned that the audit committee is in close contact with the external auditors and that meetings were regularly held between the executive board/group management and the lead auditor. However, additional information should have been provided regarding the auditors' reporting to the audit committee and its meetings with the external auditors. In the	321

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			absence of information, it must be assumed that no such instruments exist. If such instruments were to exist, however, they would have to be mentioned in the CG section.	
			Decision of the Admission Board Committee dated 23 November 2006 (ZUL-CG-II/06) , Point 31: The Sanctions Commission found that the company did not have any instruments that were not required in accordance with CO. However, according to the Commission, the issuer must at least provide information on the external auditors' reporting to the board of directors or its individual members. The CG report must also contain information on the number of meetings between these two company bodies.	322
			Decision of the Admission Board committee dated 23 November 2006 (ZUL-CG-I-06) , Point 36 et seq.: The CG report should not only state that the board of directors gains an impression of the external audit's effectiveness, but also describe how it does so. Information should also at least be provided regarding the auditors' reporting to the board of directors or the relevant board committee. The number of meetings of the same with the external auditors must also be disclosed.	323
			Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG/I/06) , Point 8: In the absence of information, it must be assumed that no such instruments exist. If they do exist, however, they must be disclosed.	324
			Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-V-05) , Points 31 and 33: The minimum information that must be published comprises the disclosure of the auditors' reporting to the board of directors, one of its members or the relevant board committee, and the number of times auditors met with the same. The structure of the supervisory and control instruments with respect to external auditors must be described (rather than simply confirming the existence of the same). The information provided must allow investors to gain an impression of the structure of the company's supervisory and control instruments with respect to the external auditors.	325
			Decision of the Admission Board committee dated 29 November 2005 (ZUL-CG-IV-05) , Point 18: The manner in which the board of directors assesses the performance,	326

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			payment and independence of the external auditors each year must be disclosed. It is not enough simply to state that it does so.	
		The boards of issuers subject to supervision by FINMA must fulfil their obligations under stock corporation law pursuant to CO, irrespective of said supervision. They are therefore required to deal with the activity of the external auditors and their payment. The disclosure obligations of Point 8.4 of the Annex apply to them. The fact that they have to provide certain information to FINMA regarding their external auditors does not release them from these obligations (please also refer to notice no. 4/2009 issued by SIX Exchange Regulation on 11 August 2009 , Point II.C.).	Decision of the Sanctions Commission dated 11 June 2010 (SaKo 2010-CG-I/10) , Point 9.4: For the purposes of the information on Corporate Governance, it is of no relevance whether the non-audit services were discussed in the regular meetings with FINMA or the board of directors took any comments or statements made by FINMA into account in its overall assessment. As a general rule, any additional provisions of regulatory law concerning the company's Corporate Governance do not release the company from its duty to comply with the DCG . The Directive applies equally to all of the issuers it covers, irrespective of whether they are regulated by FINMA or other authorities and regardless of whether an audit firm assesses compliance with the provisions of regulatory law.	327
9	Information policy			
	The following details pertaining to the issuer's information policy must be disclosed: The frequency and form of information that the issuer provides its shareholders, along with an indication of permanent sources of information and contact addresses of the issuer that are publicly accessible or made especially available to shareholders (e.g. links to web pages, information centres, printed matter).	The issuer's information policy must be disclosed to investors in a way that is transparent. In this context, the information contained in the CG report must include all material statements regarding the issuer's information policy.	Decision of the Disciplinary Commission dated 26 April 2006 (DK/CG//06) , Point 9: The CG report must contain information regarding the frequency and form in which information is provided, as well as a contact address and web site.	328
		Examples of information to be provided: <ul style="list-style-type: none"> - A schedule showing the publication dates of the annual and interim reports, the date of the general meeting of shareholders and the date of the balance sheet media conference; - Information on the media used for reporting purposes (Swiss Official Gazette of Commerce, letters to shareholders, newsletters, electronic documents etc.); 		329

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		<ul style="list-style-type: none">- Provision of push and pull links for distributing ad hoc notices pursuant to the Ad Hoc Publicity Directive (Art. 8 et seq. DAH);- Indication of the issuer's web site;- The address of the issuer's main registered offices;- Contact addresses, e-mail addresses, phone numbers etc.		

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