

Market Abuse Regulation: Reminder of Ongoing Disclosure Obligations in the Context of COVID-19

March 18, 2020

Companies subject to the EU Market Abuse Regulation (MAR), including companies listed on the London Stock Exchange, must disclose inside information to the market as soon as possible. There are very limited circumstances in which disclosure of inside information may be delayed.

As a reminder, inside information is non-public information of a precise nature relating, directly or indirectly, to the company or its securities and which, if it were made public, would be likely to have a significant effect on the prices of the securities or related derivative instruments. There are no fixed percentage thresholds or quantitative criteria that can be applied here. In the UK, the Financial Conduct Authority's Disclosure Guidance and Transparency Rules provide that in determining whether information would be likely to have a significant effect on the price of securities, the company should be mindful that there is no figure (percentage change or otherwise) that can be set for any company when determining what constitutes a significant effect on the price of the securities as this will vary from company to company.

The European Securities and Markets Authority said in its publication of [12 March 2020](#) that issuers should disclose as soon as possible any relevant significant information concerning the impacts of COVID-19 on their fundamentals, prospects or financial situation in accordance with their transparency obligations under MAR.

Companies should be monitoring closely whether their outlook and expectation of financial performance has been, or is likely to be, materially impacted by COVID-19 as this will likely constitute inside information that would need to be disclosed to the market as soon as possible. For example, this could be due to a reduction in demand for the company's products or services, the offering of cancellations/refunds, restrictions on travel, events or on the normal use of a company's facilities, workforce absences, etc. Any financial outlook guidance provided in a pre-COVID-19 environment will need to be reassessed and closely monitored and any material deviation will need to be disclosed as soon as possible.

Other developments or events which may constitute inside information could include:

- Disruptions to supply chains in areas severely affected by COVID-19
- Disruptions to transportation
- Increase in demands for products or services driven by short-term consumer behaviour (e.g., stockpiling) and/or spikes in demand for healthcare and ancillary products or services
- Diagnosis of directors/key personnel with COVID-19
- Infections at any one or more of the company's business premises
- Material change in the company's strategy or business plan in response to COVID-19
- Cancellation or delay of a pending transaction as a result of COVID-19
- Counterparty exercises force majeure rights or termination rights are triggered in material contracts or financing arrangements
- Government interventions

It will be a question of judgement for the company's directors as to whether or not the impact of COVID-19 amounts to inside information and, if so, whether there are legitimate grounds to delay disclosure in accordance with MAR. Advice should be sought from legal advisers and financial advisers (corporate brokers or nominated advisers in the UK). Listed companies are advised to review their internal disclosure reporting procedures and ensure that information is being escalated appropriately within the organisation in what is a rapidly evolving situation.

Coronavirus resource hub

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