CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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FOREWORD

By Richard Jones, Partner, Slaughter and May

The last year has clearly been a turbulent one, and this has been reflected in the market conditions in the CEE region and more widely. The Russian invasion of Ukraine and its implications for the energy markets, as well as rising inflation, ongoing trade tensions, and the general slowdown of global economic activity, have had a profound impact on all major equity and debt markets over the course of the last year, with market participants facing tight and volatile financing conditions and a rising cost of funds. Unsurprisingly, given their geographic and economic proximity to the conflict, CEE capital markets were no exception. Across the CEE region, corporate bond volumes were down in 2022, reflecting a broader European trend, with sovereign, supranational, and financial institution issuers being the most prominent among those accessing the market. On the equity side, the market for IPOs remained largely closed, and significant secondary fundraisings were also rare. The outlook for 2023 is more positive, with many hoping that the second half of the year will bring more stable credit conditions and greater financing opportunities, particularly for higher-grade corporates.

This guide sets out an overview of key requirements for equity and debt offerings across the CEE region and has been prepared in cooperation with experienced professionals recognized as key capital markets practitioners in each jurisdiction. The guide is intended to provide a high-level overview of the regulatory and listing regime (including regulated and non-regulated markets) and the typical offering process for equity and debt securities in a concise and consistent format across the various jurisdictions. In addition, the guide highlights ongoing continuing obligations and a brief summary of ESG considerations applicable to issuers.

While the focus of the guide remains the countries of CEE, we have (given London's ongoing status as Europe's major financial center) also included a UK section which hopefully serves as a useful reference point and summarises the regulatory regime in the UK for issuers considering a London listing of equity or debt securities. Despite current market conditions and the aftermath of Brexit, the UK continues to have strong public markets and the London Stock Exchange is one of the most active stock exchanges in Europe. Recent and forthcoming reforms to the UK's capital markets ecosystem should help to unlock capital and attract more companies, including those in the CEE region, to list.

We hope that this guide will provide a useful introduction to the listing process and help signpost issuers towards the key issues to consider.

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If you like what you read in these pages (or even if you don't) we really do want to hear from you. Please send any comments, criticisms, questions, or ideas to us at:
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1. Market Overview

On the DCM side, over the course of the last year banks and the Republic of Austria are most represented on the market. Corporate issuers like Vienna Insurance Group or AT&S issued benchmark-size or sub-benchmark-size corporate bonds in 2022. In the past two to three years, the biggest corporate DCM transactions consisted of three multi-tranche bond issuances by OMV AG, an integrated chemicals, oil, and gas company, with EUR 1.75 billion multi-tranche corporate bonds issued in April 2020, EUR 1.5 billion multi-tranche corporate bond issue in June 2020 as well as a EUR 1.25 billion multi-trance hybrid bond issue in September 2020. Further, several other issuers issued benchmark-size or sub-benchmark-size corporate bonds in 2020 and 2021, including, *inter alia*, CA Immobilien Anlagen Aktiengesellschaft, IMMOFINANZ AG, Wienerberger AG, and VERBUND AG.

On the ECM side, in the course of the initial public offering (IPO) of Dr. Ing. h.c. F. Porsche AG (Porsche AG) in 2022, Europe's largest IPO by market capitalization, preferred shares were – among other jurisdictions – publicly offered to investors in Austria. The preferred shares of Porsche AG are listed on the Frankfurt Stock Exchange. In 2020, Swiss-listed but Austrian-based ams AG competed for a substantial capital increase in an amount of EUR 1.65 billion, which served for the purpose of partially financing the acquisition of German OSRAM. In 2019, three IPOs took place in Vienna, with Marionomed Biotech AG opening the field for other issuers in February, followed by Frequentis AG and Addiko Bank AG in July 2019. Since 2019, no domestic IPO took place in Vienna.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

The Official Market (*Amtlicher Handel*) of the Vienna Stock Exchange (*Wiener Boerse*) is the only regulated market in Austria in accordance with the *Markets in Financial Instruments Directive* (Directive 2014/65/EU (MiFID II)). The *Stock Exchange Act 2018* (*Boersegesetz 2018*) constitutes the primary framework for the admission of securities to a regulated market in Austria as well as for ongoing obligations of issuers of listed equity and debt instruments.

2.2. Non-regulated market

The Vienna Stock Exchange also operates the Vienna MTF (formerly the Third Market (*Dritter Markt*)), which is not a regulated market within the meaning of MiFID II but a multilateral trading facility. Securities are usually admitted to trading on the Vienna MTF if securities need to be listed but the extensive governance and disclosure framework applicable to the Official Market should be avoided. The Vienna MTF is governed by the *Rules for the Operation of the Vienna MTF* of the VSE. Some of the provisions and requirements set forth in the *Stock Exchange Act 2018* do not apply to financial instruments traded on the Vienna MTF. However, the key provisions of *Regulation (EU) 596/2014* (Market Abuse Regulation (MAR)) (dissemination of inside information, directors' dealing reports, and maintaining insider lists) apply also to issuers having securities admitted to trading on the Vienna MTF.

3. Key Listing Requirements

3.1. ECM

Official Market:

Any admission to the Official Market requires the publication of an approved prospectus (see below).

For a listing on the Official Market (i.e., a regulated market pursuant to MiFID II) in the standard market segment the minimum period of existence is three years (exceptions apply) and a minimum nominal share capital of EUR 1 million is required. The free float needs to meet 25% of the total nominal value (par value shares) or 25% of the number of shares (par value shares) or 10% held by at least 50 different shareholders. From an accounting perspective, IFRS or internationally recognized accounting standards for groups or also national standards for single entities must apply.

If issuers target the so-called "prime market" segment of the Vienna Stock Exchange, some further requirements on top of those for the standard market segment apply: a specialist and further market makers need to be appointed, the capitalization of the free float needs to exceed certain thresholds (a minimum of EUR 20 million for free float > 25% or a minimum of EUR 40 million for free float < 25%), publications have to be made in German and English, and the level of compliance with post-issuance on-going requirements is higher.

Vienna MTF:

If no regulated market segment pursuant to MiFID II is required, issuers can also choose the so-called "direct market" or "direct market plus," both of which are part of the Vienna MTF segment. No prospectus is required for inclusion in trading on the Vienna MTF.

These sub-segments of the Vienna MTF are seen as basic exchange-regulated segments for SMEs and young companies as an entry segment to capital markets. There are no or only minimum periods of existence (direct market: no minimum period, direct market plus: one year). The minimum share capital for a joint stock corporation is the mandatory minimum for such legal form in Austria, amounting to EUR 70,000. For the direct market plus, the market capitalization has to be approximately EUR 10 million as a minimum, and a sufficient share diversification of at least 20 shareholders is requested by the Vienna Stock Exchange.

3.2. DCM

Also, for DCM listings, both a listing on the Official Market and an inclusion to trading on the Vienna MTF are possible options.

The admission of bonds to listing on the Official Market must be applied for by the issuer for the admission segment regulated by law along with a stock exchange member of the Vienna Stock Exchange (i.e., a credit institution being a member of the stock exchange). The minimum issue size for the Official Market is EUR 250,000; there is no such requirement for the Vienna MTF. Bonds are included in trading in the Vienna MTF upon the request of a credit institution, an investment firm, a law firm, or the issuer itself.

When an issuance program is admitted to the Vienna Stock Exchange, no separate admission procedures are required for each of the individual bonds. Trading in the bonds may start as quickly as two days after the Vienna Stock Exchange has received the bond terms of the bonds issued under the program.

4. Prospectus Disclosure

Unless a prospectus exemption applies, an issuer will be required to publish an approved prospectus when conducting a public offer of securities in Austria or filing a request for admission to trading of securities on the regulated market in Austria, namely, on the Official Market.

The key domestic laws applicable to securities offerings in Austria are the *Capital Markets Act 2019* (*Kapitalmarktgesetz 2019*) and the *Stock Exchange Act 2018* (*Boersegesetz 2018*). The Prospectus Regulation (EU) 2017/1129 is the primary source governing the offering of securities, including in particular the prospectus obligation (publication of an approved prospectus for public offers of securities) as well as exemptions from the prospectus obligation. The *Capital Markets Act 2019* supplements the Prospectus Regulation and sets out the rules for the public offering of investments (*Veranlagungen*) in Austria, which requires in principle the publication of an investment prospectus.

The Prospectus Regulation, the Capital Markets Act 2019, and the Stock Exchange Act 2018 are primarily administered and enforced by the Austrian Financial Market Authority (*Finanzmarktaufsichtsbehoerde*/FMA). Any public offer of securities or investments pursuant to the *Prospectus Regulation or the Capital Markets Act 2019* is subject to a prospectus publication, either approved by the FMA or passported into Austria. If a listing of securities is sought, the prospectus, along with other documents, has to be filed with the Vienna Stock Exchange which operates the only regulated market in Austria: the Official Market. In addition, any prospectus for an offer of securities in Austria has to be filed with Oesterreichische Kontrollbank AG (OeKB). If the FMA approves a prospectus, the FMA directly procures the filing with OeKB.

A prospectus shall contain the necessary information which is material to an investor for making an informed assessment of (i) the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor, (ii) the rights attaching to the securities, and (iii) the reasons for the issuance and its impact on the issuer. That information may vary depending on the nature of the issuer, the type of securities, the circumstances of the issuer, or, where relevant, whether or not non-equity securities have a denomination per unit of at least EUR 100,000 or are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading in the securities.

The prospectus may be drawn up as a single document or as separate documents, whereby the latter shall divide the required information into a registration document, a securities note, and a prospectus summary (in case required). The registration document shall contain the information relating to the issuer. The securities note shall contain the information concerning the securities offered to the public or to be admitted to trading on a regulated market.

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

See above. The content and information to be included in the prospectus for equity securities are outlined in the Prospectus Regulation and the respective Annexes of the Commission Delegated Regulation (EU) 2019/980.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

See above. The content and information to be included in the prospectus for non-equity securities are outlined in the Prospectus Regulation and the respective Annexes of the *Commission Delegated Regulation (EU) 2019/980*.

4.3 Local market practice considerations

See above.

4.4. Language of the prospectus for local and international offerings

The most common language used for prospectuses is English; however, a prospectus drafted only in German can be used for debt offerings. For ECM transactions an English language prospectus, along with a German language translation of the summary in case Austrian retail investors are also targeted, is market standard.

5. Prospectus Approval Process

5.1. Competent authority/regulator

The competent regulator for prospectuses in Austria is the

Austrian Financial Market Authority (*Finanzmarktaufsichtsbehoerde*/FMA).

5.2. Timeline, review, and approval process

To commence a public offer, a prospectus must be drawn up in accordance with the Prospectus Regulation (public offer of securities) or the *Capital Markets Act 2019* (public offer of investments), and filed with the FMA for approval.

The FMA must notify the issuer, the offeror, or the entity asking for admission to trading on a regulated market, as the case may be, of its decision regarding the approval of the prospectus within ten banking days of the filing of the prospectus. This time limit is reduced to five working days for a prospectus drawn up by frequent issuers referred to in Article 9, Paragraph 11 of the Prospectus Regulation. An extended review period of 20 banking days applies if the issuer's securities have not yet been admitted to trading on a regulated market. Usually, the first version submitted to the FMA is not complete and still includes placeholders for missing parts and information. The FMA provides comments on the submitted prospectus at the end of the review period. In such a case, the issuer adds further missing information, addresses the FMA's comments, and re-submits an amended prospectus version to the FMA. After that, the FMA again reverts within the respective review period. The review period applies to each prospectus version submitted. Accordingly, it is common practice to have several review rounds for debt prospectuses and even more for prospectuses for equity offerings.

Once approved, the prospectus must be published as soon as practicable, at least prior to the commencement of the offering. The publication may, inter alia, be undertaken electronically on the website of the issuer. Subsequent to the approval, the prospectus must also be provided to Oesterreichische Kontrollbank AG (OeKB) as the registration office. The issuer must notify the New Issue Calendar (*Emissionskalender*) maintained by the OeKB for statistical purposes prior to the commencement of an offering in Austria, both for equity and debt offerings and irrespective of any prospectus exemption applied.

In ECM market practice, issuers usually file a prospectus with a price range and the maximum volume of securities offered as the final price and volume of securities can be provided only after the completion of the book-building process. The book-building process starts with investors submitting bids for purchasing the securities at prices that must be within the pre-defined offer price range or maximum limit. At the same time, marketing activities are usually undertaken by the issuer and the underwriters (e.g., press conferences, road shows, or advertising). The offer price is usually determined after the book-building phase. Finally, the issuer is obliged to publish the final offer price and definite volume of securities placed with investors.

Sales of securities in a public offering are usually settled through a clearing system. The settlement process, whereby securities are delivered, usually against payment, is subject to the rules and procedures of the respective clearing system. In most issues, individual certification of security is excluded. Therefore, global certificates are deposited with a securities clearing bank (e.g., Oesterreichische Kontrollbank AG). In certain cases, temporary and permanent global notes are used.

6. Listing Process

6.1. Timeline, process with the stock exchange

An application to list securities to the Official Market or to include the securities in trading on the Vienna MTF has to be filed with the Vienna Stock Exchange. For a listing on the Official Market, the application for admission to the listing of securities or of an issue program must be made in writing by the issuer and signed by an exchange member of the Vienna Stock Exchange. The issuer must state, among other things, the type and denomination of the securities as well as the total amount of the issue to be admitted by stating the nominal value or in the case of no-par value securities, the expected market value and the number of securities. In the case of an application for admission to the listing of an issue program, the total amount of the maximum issue volume stated in the prospectus shall refer to all potential non-dividend-paying securities. The filing with the Vienna Stock Exchange must be accompanied by, inter alia, the approved prospectus, an excerpt from the companies' register relating to the issuer not older than four weeks, and proof of any other legal requirements for the issue of securities (e.g., corporate resolutions).

The issuer and the Vienna Stock Exchange usually agree on the date of the public listing. The Vienna Stock Exchange is obliged to reach a decision on applications for admission of securities within ten weeks after submission.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

ACGC

The *Austrian Corporate Governance Code* (ACGC) was published by the Austrian Working Group on Corporate Governance, a group of private organizations and individuals in 2002 and was amended most recently in January 2023. The ACGC primarily applies to Austrian stock market-listed companies that undertake to adhere to its principles. The ACGC is based on statutory provisions of Austrian corporate law, securities law, and capital markets law (Legal Requirements/L Rules), which must be complied with. In addition, the ACGC contains rules considered to be a part of common international

practice, such as the principles set out in the OECD Principles of Corporate Governance and the recommendations of the European Commission. Rules an issuer should comply with are so-called "Comply or Explain" rules (C Rules); reasons and explanations for deviations from C Rules must be provided in order to ensure compliance with the ACGC. In addition, the ACGC provides for voluntary rules seen as recommendations only, deviations of which do not require explanations (Recommendation/R Rules).

Management Board

As to the composition of the management board (*Vorstand*), which handles the day-to-day management of an Austrian joint stock company, the ACGC foresees that the management board shall be made up of several persons, with one member acting as the chairperson of the management board. Internal rules of procedure of the management board shall define the distribution of responsibilities and the mode of cooperation between management board members.

The management board shall provide the supervisory board periodically and in a timely manner with comprehensive information on all relevant issues of business developments including an assessment of the risk situation and the risk management in place at the company and at group companies in which it has major shareholdings. If an event of major significance occurs, the management board shall immediately inform the chairperson of the supervisory board; furthermore, the supervisory board shall be immediately informed of any circumstances that may have a material impact on the profitability or liquidity of the company (special report). Ensuring that the supervisory board is supplied with sufficient information is a joint task of the management board and the supervisory board. Members of the boards and the staff members involved are obliged to maintain strict confidentiality.

The management board shall agree on the strategic direction of the company with the supervisory board and shall periodically discuss the progress made in implementing the strategy.

Supervisory Board

The supervisory board (*Aufsichtsrat*) of an Austrian joint stock company is responsible for overseeing the management board and shall provide support to the management board in governing the enterprise and, in particular, shall assist in making decisions of fundamental significance. The supervisory board appoints the members of the management board and has the right to terminate their employment. The supervisory board shall set up expert committees among its members depending on the specific circumstances of the enterprise and the number of supervisory board members. These committees shall serve to improve the efficiency of the work of the supervisory board and shall deal with complex issues. However, the supervisory board may discuss the issues of the committees with the entire supervisory board at its discretion. An audit committee must be set up. At least one person with special knowledge meeting the company's requirements and practical experience in the area of finance and accounting and reporting must belong to the audit committee (financial expert). The chairperson of the audit committee or financial expert may not be a person who in the past three years has served as a member of the management board or has discharged managerial duties or has served as auditor of the company or has signed an auditor's opinion or who is not independent and free of prejudice for any other reason. The audit committee shall be responsible for monitoring the accounting process and or monitoring the efficacy of the internal control and risk management system, the independence and the activities of the auditor of the financial statements as well as for the approval of non-audit services.

7.2. Any other ESG considerations

According to the C Rule 16a of the ACGC, in the development and implementation of the corporate strategy the management board includes aspects of sustainability and associated opportunities and risks related to the environment, social issues, and corporate governance.

Companies that are large joint-stock companies with over 500 employees on the annual average must include a non-financial statement in the management report or must publish a separate non-financial statement. Non-financial reporting must include all information that enables readers to understand the development of the business, the result of operations, the situation of the company, and the effects of its activities. As a minimum, the non-financial report must contain information relating to environmental protection, social responsibility and treatment of employees, respect for human rights, anti-corruption, and anti-bribery measures. It must also include a description of the policies in place, the principle risks that arise from its own business activities, and – if relevant and reasonable – also from business relationships, products, and services. For this report, the company may take guidance from national, European Union, or international policy frameworks.

8. Ongoing Reporting Obligations (Life as a Public Company)

Upon listing on the Official Market of the Vienna Stock Exchange, issuers become subject to ongoing reporting requirements set forth in the *Stock Exchange Act 2018*. Provisions on the reporting obligations are harmonized as a result of the implementation of *Directive 2004/109/EC as amended by Directive 2013/50/EU* (Transparency Directive), including major shareholding disclosure, ad hoc disclosure, and mandatory publications of financial information.

Further, in case of admission of securities to trading on the Vienna multilateral trading facility (MTF), the issuer will become subject to key *Market Abuse Regulation 2014/596/EU* provisions (dissemination of inside information, directors'

dealing reports, maintaining of insider lists, prohibition of market manipulation and prohibition of insider dealing and of unlawful disclosure of inside information) if he has submitted an application for inclusion in trading of the financial instrument or has approved it.

8.1. Annual and interim financials

Issuers of debt and equity securities must disclose annual financial statements no later than four months after the close of the financial year and half-year reports no later than three months after the close of the reporting period, and shall ensure that this report is available to the public for at least 10 years. Moreover, issuers whose shares are listed in the Vienna Stock Exchange's prime market segment must publish their half-year report no later than two months after the close of the reporting period. Companies listed on the Vienna Stock Exchange's prime market segment may choose whether to publish quarterly reports for the first and third quarters and in what form.

Annual financial reports for financial years as of 1 January 2020 are required to be published in the European Single Electronic Format (ESEF). An overview of the process for the acceptance of the technical standards on the reporting format in which issuers should prepare their annual financial reports is provided by the *Regulatory Technical Standards* (RTS) on ESEF (i.e., *Commission Delegated Regulation* (EU) 2019/815, as amended).

8.2. Ad hoc disclosures

Pursuant to Article 17 of the *Market Abuse Regulation* (*Regulation 2014/596/EU*), issuers of financial instruments shall inform the public as soon as possible of inside information that directly concerns that issuer. Inside Information according to Article 7 of the *Market Abuse Regulation* is any information of a precise nature, which has not been made public, relating, directly or indirectly, to one or more issuers or to one or more financial instruments, and which, if it were made public, would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments.

The issuer must ensure that the inside information is made public in a manner that enables fast access and complete, correct, and timely assessment of the information by the public and, where applicable, in the officially appointed mechanism referred to in Article 21 of *Directive 2013/50/EU*. The issuer shall not combine the disclosure of inside information to the public with the marketing of its activities. The issuer shall post and maintain on its website for a period of at least five years, all inside information it is required to disclose publicly.

Inside information has to be disclosed ad hoc with the intention of an EU-wide distribution via certain channels, including Reuters, Bloomberg, and Dow Jones Newswire. Any major changes with respect to inside information, which has already been disclosed, must be disseminated immediately after any such change takes place.

In certain cases, an issuer possessing inside information is entitled to postpone the ad-hoc disclosure to protect its justified interests. Issuers are permitted to delay disclosure of inside information to protect their legitimate interests, as long as the public is not misled, and confidentiality can be maintained (Article 17 para 4 of the *Market Abuse Regulation*). In such cases, the issuer is obliged to ensure confidentiality. The FMA has to be notified immediately after the disclosure of inside information via email. To preserve the stability of the financial system, an issuer that is a credit institution or a financial institution, may, on its own responsibility, delay the public disclosure of inside information, under certain circumstances.

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1. Market Overview

a. Biggest ECM and DCM transactions over the past 2 years

In terms of ECM transactions, the past two years were driven mainly by IPOs placed on the MiFID II SME Growth Market, operated by the Bulgarian Stock Exchange (BSE), called BEAM (Bulgarian Enterprise Accelerator Market). The booming start of the BEAM market was triggered by the IPO of Biodit in January 2021, followed by twelve successful IPOs of companies from different economic sectors until the end of 2022 and one secondary offering, totaling above BGN 43 million (approximately EUR 22 million).

It is noteworthy that the success story of the BEAM market for the past two years was recognized and supported by the Bulgarian regulators and the threshold for the exemption from publication of a prospectus including for IPOs on the BEAM market was uplifted to EUR 8 million in July 2022, meeting the maximum allowed exemption threshold under the new Prospectus Regulation (i.e., Regulation (EU) 2017/1129). The tax treatment also remains favorable – until the end of 2025, capital gains from trades in equities on BEAM don't incur Bulgarian tax.

In addition, there were two significant IPOs targeting the Main Market (Standard Segment) of the Bulgarian Stock Exchange, being **(i)** Eleven Capital AD, a venture capital structure, which chose to fund its business through the capital market and completed the first Bulgarian IPO since 2018 in March 2020. Eversheds Sutherland assisted as the single legal counsel for this transaction; and **(ii)** Telematic Interactive Bulgaria, an online gaming business operated under the Palms Bet brand, which placed the most sizeable IPO for 2022, raising around BGN 16 million (approximately EUR 8 million).

On the DCM side, the last two years were relatively flat on the domestic market, with bank regulatory bonds being the most interesting instruments coming to the market. TBI Bank placed in July 2021 the first-ever T2 bonds traded on the Bulgarian Stock Exchange with a tranche of EUR 10 million out of EUR 30 million total books. The second successful attempt at raising funds through the market was made by Bulgarian American Credit Bank (BACB), which issued EUR 15 million MREL bonds in December 2022. Eversheds Sutherland advised on both transactions as issuer and single counsel.

In addition, during the past two years a number of local bonds were placed on the domestic market, the biggest of BGN 68 million (approximately EUR 35 million) in size.

International DCM activity from Bulgaria remains reasonably high, with the Republic of Bulgaria issuing regularly (the latest, being the Republic's 144A EUR 1.5 billion tranches, issued in January 2023). Corporates are also issuing, with First Investment Bank issuing and listing in Luxembourg a total of EUR 40 million under its issuing program in late 2021 and early 2022.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

There are two regulated markets in Bulgaria, both operated by the Bulgarian Stock Exchange, the BSE Main Market and BaSE Alternative Market.

BSE Main Market is the main market and is divided into several segments. The prime share segment is called the Premium Segment and the other main segment is Standard Segment. There are also several other special segments, such as the Special Purpose Vehicles Segment, where the shares of REITs are traded, the Government Bonds segment, the Exchange Traded Funds segment, and the Bonds Segment.

Less liquid issues are traded on the BaSE Alternative Market. Their admission is made only *ex officio* by the Bulgarian Stock Exchange through relocation from the BSE Main Market if the issue or its issuer no longer complies with the requirements of the main market.

2.2. Non-regulated market

The Bulgarian Stock Exchange runs also the BEAM market, which is a MiFID II SME Growth Market. The efforts of BSE in the past year were mainly focused on the development of this multilateral trading facility (MTF) by attracting small and medium-sized companies to list their shares on BEAM. This approach has proved quite successful as thirteen IPOs were launched on the marked for the past two years, topped up by one listing on BEAM, overall giving fourteen investment opportunities for the investment base of BEAM. The BEAM market undertakes its steps toward reaching a more mature phase as several secondary offerings were already placed or are being announced to come soon.

BSE also operates the BSE International market, which is an MTF granting access for Bulgarian investors to gain direct exposure to blue-chip international companies from across the world.

3. Key Listing Requirements on the BSE

3.1. ECM

The key listing requirement for equity securities listings on the regulated market segments of the BSE is the publication of a listing prospectus approved by the Bulgarian competent authority, the Financial Supervision Commission (FSC) (see Section 4.). In addition, the following applies:

For the Premium Segment the equity issuer must have been profitable at least for two out of the preceding five years, must comply with the corporate governance standards (including to

be disclosing information in English), as well as must meet the requirements for:

(i) financial history – at least five years of financial history;

(ii) free float – at least 25% free float or free float amounting to at least BGN 5 million (approximately EUR 2.5 million) in market cap;

(iii) total market cap – at least BGN 50 million (approximately EUR 25 million), alternatively the equities to have been previously listed on the Standard Segment for at least one year;

(iv) monthly average turnover – at least BGN 200,000 (approximately EUR 102,000) monthly average turnover in the equities listed on the BSE for the preceding six months; alternatively, the issuer must have an arrangement with a market maker; and

(v) a number of transactions – at least a monthly average of 100 transactions in the listed equity securities within the preceding six months; alternatively, the issuer must have an arrangement with a market maker.

The requirements for listing on the Standard Segment of the BSE are less strict and include a monthly average turnover in the listed equity securities within the preceding six months of at least BGN 4,000 (approximately EUR 2,045) and at least a monthly average of five transactions in the equity securities within the last six months.

Listings on BEAM require the production of a listing memorandum (instead of a prospectus), the employment of a BSE-approved advisor, and compliance with several other requirements.

3.2. DCM

For the listing on the Bonds Segment of BSE, the remaining maturity of the bonds must be at least one year and the total outstanding principal amount under the bonds must be at least (the equivalence of) BGN 1 million, denominated in BGN, EUR, or USD.

4. Prospectus Disclosure

4.1. Regulatory regimes (Prospectus Regulation or similar) – equity and debt

The new Prospectus Regulation, i.e., *Regulation (EU) 2017/1129*, applies in full as of July 21, 2019. This regulation, together with its supporting legislation (New EU Prospectus Legislation), applies directly across the European Union, including Bulgaria, and in the EEA as a whole, both for equity and debt instruments. Supporting legislation around the new EU prospectus regime (Bulgarian National Regime) has been introduced in the *Public Offering of Securities Act* (POSA) and became effective as of August 2020, along with certain other amendments made in the relevant secondary legislation of POSA, which have been subsequently adopted.

According to the New EU Prospectus Legislation and the Bulgarian National Regime, except where certain exemptions apply, a prospectus must be drafted, approved by the competent regulator, the FSC, and published, prior to the beginning of a public offer of securities in Bulgaria and/or the admission of securities to trading on a regulated market.

The prospectus can be drafted either as three separate documents (i.e., a registration document, a securities note, and a summary) or in one single document, which covers the required information from the three aforementioned documents. While the preferred option for issuers in Bulgaria in the last 15 years has been the preparation of a three-component prospectus, local practices are evolving towards a more commonplace use of a single document prospectus.

The prospectus must contain, as part of the registration document, information about the issuer and its organizational structure and management, the risk factors to which the issuer's activities are exposed, a business review of the issuer, as well as information on the issuer's financial condition. In addition, the securities note section of the prospectus must contain information on the terms and conditions of the securities and their offer and the risk factors inherent to the offered securities. The summary must contain a brief resume of the information provided in the registration document and the securities note and must make it possible for potential investors to understand easily the characteristics of the issuer and the offered securities.

Special rules apply to prospectuses in relation to securities issued by REITs. In addition to the minimum content of the prospectus, as provided in the New EU Prospectus Legislation and the Bulgarian National Regime, the prospectus for REITs must contain information regarding the investment policy, investment restrictions, and the characteristics of assets which may be acquired by the respective REIT, as well as data about the custodian bank, the services, which shall not be outsourced to third party (servicing) companies, information about such third party (servicing) companies, which shall be used, the evaluators of the REIT and applicable management fees and fees for servicing companies.

In relation to debt instruments issuances, where a publication of a prospectus is not mandatory (e.g., so-called private offerings), the *Bulgarian Commercial Act* provides for a minimum content of the offering circular, which must include the most important information about the offered bonds and the terms and conditions for subscription, such as information on the size of the offered bonds, face value and issue value of the bonds, their maturity and repayment schedule, the interest payment structure, the collateral (if any) under the bonds, the terms and conditions for the subscription of bonds, etc.

The prospectus or offering circular for covered bonds (the issuers of which may only be banks) must contain specific

additional information to meet the requirements of the *Covered Bonds Act*, which transposes the requirements of the *Covered Bonds Directive*. This includes an outline of the rules on the cover pool register (including the access to the register and maintaining information therein), which the issuing bank must maintain for each covered bond; details of the cover pool (including details of the evaluation of the cover assets, geographic distribution, and maturity structure); and detailed for the requirements for over-collateralization, risk qualification of the cover assets, et cetera.

4.3. Local market practice considerations

After the New EU Prospectus Legislation became applicable, the local market practice follows the new regime. Nonetheless, there are still certain local specifics, which need to be taken into consideration.

Liability for the information included in the prospectus

The POSA provides, as required under the new Prospectus Regulation, that the members of the management body of the issuer, its procurators, as well as the offeror, the person asking for admission to trading, and (where applicable) the guarantor, are jointly liable for any damages arising out of untrue, misleading or omitted information in the prospectus.

However, it is noteworthy that according to the Bulgarian National Regime, in excess of the Prospectus Regulation requirements, the officers responsible for the preparation of the financial statements of the issuer are also jointly liable with the foregoing for any damages arising out of untrue, misleading and omitted data in the financial statements of the issuer. The issuer's auditors are liable for damages arising out of the audited financial statements of the issuer.

On the other hand, there are no special rules on the liability of experts, whose expertized opinions may be referenced in a prospectus.

In addition to civil liability and administrative sanctions that may be imposed by the FSC, the *Penal Code* provides that there is criminal liability for any person who, in relation to a public offer of securities, knowingly uses untrue favorable information in a prospectus, or does not disclose unfavorable data, which is of material importance in the making of an investment decision to acquire such securities.

Still, there are no explicit requirements, under Bulgarian law or when it comes to local transactions market practice, for the carrying out of due diligence of the information included in the prospectus. Following the lead of Bulgaria-originated capital markets transactions, domestic practices are gradually starting to evolve towards the including of due diligence processes with the help of external advisors (legal, tax, technical, etc.), acceptable to the lead managers, aiming at reducing any potential risks of claims by investors against the issuer and/or the managers arising out of deficiencies in the prospectus.

Publication of the prospectus

According to the New EU Prospectus Legislation, the prospectus must be published in an electronic form on the issuer's website and/or on the websites of the lead managers. Usually, the prospectus is not published on the website of the Bulgarian Stock Exchange until the offered securities are listed.

Notice for the public offer

Albeit no explicit requirement exists in the New EU Prospectus Legislation, the Bulgarian National Regime requires a notice for the public offer to be published prior to the beginning of the subscription period of the offered securities. This notice must contain the terms and conditions of the public offer and be published at least on the websites of the issuer and the lead manager/s. The publication must take place at least 7 days before the initial date of the subscription period.

4.4. Language of the prospectus for local and international offerings

The general principles of Article 27 of the *Prospectus Regulation* apply. Absent the practice of the FSC to date with approving prospectuses of non-Bulgarian issuers or of Bulgarian issuers who do not intend to offer their securities in Bulgaria, the FSC reviews draft prospectuses prepared in the Bulgarian language. This practice is likely to evolve toward the use of the English language even in the prospectus approval process.

Irrespective of the above rules, the preparation of English (unofficial) versions of Bulgarian prospectuses (even where an offer of securities thereunder will be made only in Bulgaria) has become relatively commonplace except in the case of smaller issuers or issuers. This trend is encouraged by certain BSE rules and corporate governance rules even though they would strictly apply to the post-IPO disclosure of information by issuers.

5. Prospectus Approval Process

5.1. Competent Regulator

The Financial Supervision Commission is the competent local regulator in relation to the Bulgarian capital market. The FSC approves prospectuses and supervises the trading of financial instruments. The FSC is also the competent regulator and supervisor for public companies. Its powers include ongoing supervision of public companies in relation to their compliance with transparency requirements, the *Market Abuse Regulation* regime, corporate governance standards set in Bulgaria, and the protection of the rights of the investors in financial instruments at large.

5.2. Timeline, number of draft submissions, review and approval process

The procedure for approval of the prospectus by the FSC usually takes around two months for first-time issuers and

around a month and a half for follow-on offerings by more frequent issuers. However, after the introduction of the New EU Prospectus Legislation and the Bulgarian National Regime, the practice of the Bulgarian regulator is gradually evolving towards shortening the terms for prospectus approval to meet the international standards for scrutiny of prospectuses.

As a matter of practice, two submissions of drafts are necessary to obtain the approval of the prospectus by the FSC: after the first draft submission, the FSC typically reverts with instructions for revisions and updates of the information contained in the draft and subsequently approves the so revised draft prospectus if the FSC finds that the identified deficiencies have been remedied.

The approval procedure is strictly formal, but the regulatory practice towards meeting international standards for ongoing coordination with the regulator gradually evolves in the last year and is expected to be the "common rule" in the future.

According to the POSA, the FSC has special powers to reject approval of the prospectus also in cases where the public offer of shares will dilute existing shareholders due to the fact that the issue value of the offered shares is lower than the book value of the outstanding shares from the capital of the issuer, as well as where the FSC establishes that the rights of investors are not fully protected.

A decision of the FSC not to approve a prospectus may be appealed before the court. The grounds for appeal are, however, limited to a breach of procedure or law. In line with general Bulgarian administrative paradigms, the discretion applied by the FSC in the course of approval proceedings is not subject to judicial review.

6. Listing Process

6.1. Timeline, process with the stock exchange

The listing on the BSE typically takes two to three weeks after the public offer is finalized, and is not concurrent with the closing (end of placement and release of proceeds to the issuer) of a capital market transaction. The reason is that the respective securities ought to be registered with the Central Depository AD (Bulgaria's CSD), as well as with a special register of issues and pubic companies, maintained by the FSC. The listing application with the BSE must be accompanied by (in addition to a copy of the prospectus) the FSC's approval resolution, and the CSD's registration certificate. The BSE grands listing by a resolution of its Board of Directors, wherein the first day of trading is determined.

Therefore, the local market is in expectation of reforms, which would make new issues immediately tradeable.

7. Corporate Governance

7.1. Corporate governance code/rules (iNED, board and supervisory composition, committees)

Corporate governance of Bulgarian public companies is regulated both at the legislative level, as well as in the *National Corporate Governance Code* (its current version from 2021) (NCGC), a soft law document applying the "comply or explain" principle.

The applicable law sets out requirements regarding the remuneration and composition of management and supervisory bodies of a public company and the establishment of an audit committee. Various rules are also put in place to ensure the protection of minority shareholders' rights. For example, amendments to the POSA from 2020 transpose certain aspects of the second *Shareholder Rights Directive (EU) 2017/828*.

According to *Ordinance No. 48* of the FSC, issued upon delegation by the POSA and several other acts of Parliament in relation to which the FSC exercises supervisory and regulatory functions, public companies are required to maintain and make public a remuneration policy which sets out details on the conditions for the award of fixed and variable remuneration and the provision of termination compensations to company directors and officers. The Ordinance sets out rules for deferral of variable remuneration, payment in instruments, and the claw-back of payments, and also allows public companies to form a remuneration committee. The POSA requires public companies' annual reports to include a statement on the implementation of remuneration policies. Furthermore, under the Independent *Financial Audit Act*, public companies are required to establish an independent audit committee, which is tasked with providing additional oversight over a public company's business and financials. Finally, under the POSA, public companies must appoint an investor relations officer and ensure that at least one-third of the members of their board of directors, respectively supervisory board, is independent. As part of the ongoing obligations under the POSA (see Section 9.a.) a public company must issue an annual corporate governance report on its compliance with the NCGC and provide information on the company's diversity policy or explain the reasons for not maintaining one.

The NCGC supplements the legal requirements with non-binding guidelines for good corporate governance. The NCGC is aligned with the *OECD Principles of Corporate Governance* and contains recommendations for the composition of corporate bodies, management of conflicts of interest, protection of shareholders, and disclosure of information. The 2021 amendments to the NCGC also align it with the EU's recent policies (including the *Green Deal* and *SFDR*, and *United Nations' sustainability and human rights policies*).

A particular feature of corporate governance of Bulgarian

public companies is a scrupulous regime on the shareholder approval (or qualified board approval), under threat of nullity, of certain material transactions of the public company. The POSA sets a variety of materiality thresholds (lower if an "interested party" is the counterparty to the transaction with the public company), which trigger the application of the above rules. By way of example, shareholder approval is required when a public company enters into a transaction whereby its exposure to the counterparty will exceed one-third of the lower of values of the public company's assets according to the two latest balance sheets (which have been publicly disclosed and at least one of which is audited). The threshold is 1 percent (of the lower of the two values) if the counterparty is an "interested party," e.g., where the same person directly or indirectly holds at least 25 percent of the votes in both the public company and the counterparty. Some would find this regime overly burdensome on public companies, others would support it in the name of protecting minority shareholders.

Another interesting aspect of Bulgaria's regime of public companies, touching upon corporate governance, is that shareholders have a non-waivable preemption right in case of a share capital increase. This reflects on the leeway of majority shareholders (or company boards if authorized by the virtue of the company's bylaws or a general meeting delegation) when planning follow-on offerings, i.e., share capital increases, after the initial going public.

7.2. Any other ESG considerations

Broadly at pace with global and EU-level developments, ESG considerations are gradually beginning to play an increasingly relevant role among issuers and investors. The 2021 amendments to the NCGC put a clear focus on sustainability reporting by boards (at least once per year), board education in that area, corporate focus on ESG matters (with emphasis on environmental sustainability, diversity, and human rights), and broad transparency.

We expect that Bulgaria's first green bond is a matter of impending future, for example.

Documentation and Other Process Matters

a. Over-allotment (greenshoe or brownshoe structure)

Over-allotment structures, such as greenshoe, have not been used on the Bulgarian capital market regularly in the past years. This is due to the lower liquidity of the local market, which generally hinders oversubscription and the fact that security issues are generally placed by managers without a firm commitment (best effort placement). Thus, although the use of different over-allotment strategies is legally possible in accordance with general rules, e.g., on stabilization (see lit. c) below) or share buybacks, they have not been tested in practice.

b. Stock lending agreement – whether it is used and whether there are any issues (tax, takeover directive)

Under the current market practice, stock lending agreements do not play a role in the offering of securities in Bulgaria.

c. Stabilization – whether allowed and on what terms (MAR, local regimes)

Stabilization measures are generally allowed in Bulgaria. The conditions for stabilization follow the general requirements of the *Market Abuse Regulation* (MAR), as detailed in *Commission Delegated Regulation (EU) 2016/1052*, including e.g., any such measures/ transactions are subject to appropriate prior and subsequent disclosure and regulatory reporting and stabilization is confined to a 30-day stabilization period (60-days in the case of bonds) with restrictions applicable to the price levels during that period. Bulgarian law does not provide for specific local requirements.

Although allowed by law, stabilization measures are uncommon in domestic capital markets transactions in Bulgaria and therefore the available regulation is heavily underused. This lack of practice results in legal uncertainty as to the application of the rules on the side both of issuers and the competent regulator, the FSC.

8. Ongoing Reporting Obligations (Life as a Public Company)

The ongoing reporting obligations of issuers on the Bulgarian capital market are generally aligned with sectorial EU law and cover the disclosure of financial and other material information on an issuer, as well as the disclosure of information on certain shareholder activities. Most notably, these requirements stem from the *Transparency Directive*, as transposed in the POSA, and from the MAR.

8.1. Annual and interim financials

Issuers domiciled in Bulgaria that have listed equity or debt securities on a regulated market or have offered such securities to the public in Bulgaria are required to disclose regular financial information in accordance with Title 3, Chapter VIa of the POSA.

These disclosures include the following types of information:

(i) annual financial report (containing, i.e., audited annual financial statements, audit report, and a corporate governance report) – to be published on an individual basis within 90 days after the end of the financial year (in general December 31) and – where relevant – on a consolidated basis within 120 days thereafter;

(ii) semi-annual financial report (containing, i.e., six-month financial statements) – to be published on an individual basis within 30 days after the end of Q2 and – where relevant – on a consolidated basis within 60 days thereafter;

(iii) quarterly statement on the financial condition (containing key financials) or a more granular quarterly financial report – to be published on an individual basis within 30 days of the end of Q1, Q3, and Q4 and – where relevant – on a consolidated basis within 60 days thereafter.

In principle, financial information should be prepared in accordance with the IFRS if the issuer reports based on its consolidated situation, but it can also be prepared following the *Bulgarian National Accounting Standards* if the issuer reports on an individual basis only. Disclosures must be made (also) in the Bulgarian language if the securities are offered or traded only locally and in the case of dual listings. The biggest issuers and a number of other issuers report in both Bulgarian and English voluntarily. Where the securities are listed only on a foreign regulated market, the issuer should preferably report its financials in English.

The information must be made public through a news agency ensuring its efficient dissemination to the public in Bulgaria and the other EEA member states. Annual and semi-annual reports must be maintained for a period of at least 10 years, and quarterly reports for a period of at least five years.

An important exemption from the disclosure requirements under items **(i)** and **(ii)** above applies to issuers exclusively of debt securities admitted to trading on a regulated market, the denomination per unit of which is at least EUR 100,000 or its equivalent in another currency. This exemption, however, does not apply to the requirement under item **(iii)** above and is also of limited practical value due to the obligations of a bond issuer to provide similar information to the bondholders' trustee.

Furthermore, the *Commission Delegated Regulation (EU) 2017/565* sets general requirements for the disclosure of financial information by issuers, whose securities are admitted to trading on a Bulgarian MTF (see Section 2.b.). Under this regulation, MTFs must ensure that issuers publish annual financial reports within six months after the end of each financial year, and semi-annual financial reports within four months after the end of the first six months of each financial year. Operators may exempt debt issuers that have no equity instruments traded on MTF from the requirements to disclose semi-annual financial information. The details of these reporting requirements are left to the rules of each MTF.

8.2. Ad hoc disclosures

Ad hoc disclosures form another important category of ongoing obligations for issuers in Bulgaria. Its most notable example is the ad hoc disclosure of inside information under the MAR. In a broader sense, this category includes other disclosure requirements triggered by the occurrence of certain circumstances, such as the disclosure of managers' transactions under the MAR and the disclosure of qualified holdings under the POSA.

Disclosures under the MAR

Bulgarian issuers of equity or debt securities traded, admitted, or applying for admission to trading on a regulated market or an MTF are required to disclose to the public any issuer-specific inside information, i.e., price-sensitive non-public information, of which they become aware, as soon as possible after identifying a piece of information as such. The public disclosure of inside information can be delayed, where an issuer has a legitimate interest in doing so or – in the case of issuers that are credit or financial institutions – due to financial stability considerations. The decision on the delay of disclosure must be properly documented by the issuer and comply with additional requirements aimed at preserving market integrity and confidentiality of the piece of inside information concerned.

In addition, an issuer must disclose certain transactions in or related to its instruments made by persons discharging managerial responsibilities within its structure or persons closely related to the latter, so-called "managers' transactions." For this purpose, the above persons are required to notify the issuer for each of their transactions in such issuer's equity or debt securities (or related derivatives) after reaching an individual threshold of EUR 5,000 in gross transaction value per year. Issuers must fulfill their obligation within three business days of the relevant person entering into a notifiable transaction.

Both types of disclosures should be made through a media (news agency) which ensures the efficient dissemination of the information to as wide a public as possible on a non-discriminatory basis, free of charge, and simultaneously throughout the EEA. Issuers are further required to post and maintain on their websites any information made public for a period of at least five years.

Disclosures of significant holdings under POSA

Bulgarian equity issuers, whose securities are listed on a regulated market or have been offered to the public (public companies) are further required to disclose to the public any notifications received from persons who directly and/or indirectly have acquired or transferred voting rights representing 5% or a multiple of 5% of all voting rights in the general meeting of the respective issuer. The disclosure obligation must be fulfilled within three business days of receipt of the respective notification through a new agency ensuring the efficient dissemination of the information to the public throughout the EEA.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

The Zagreb Stock Exchange (ZSE), Croatia's sole stock exchange, was formally established on July 5, 1991, with the Varazdin Securities Market later merging with ZSE in 2007. In 2015, ZSE acquired a stake in the Ljubljana Stock Exchange, expanding its reach even further. During 2022, the ZSE acquired shares in the Macedonian Stock Exchange on several occasions and ultimately became the largest shareholder in that regionally important stock exchange with a 29.98% stake. All three stock exchanges have been cooperating very successfully in various fields for many years, exchanging knowledge, experience, and best practices with the aim of increasing the visibility of the regional market on the global investment map.

In 2016, ZSE founded Funderbeam South-East Europe (Funderbeam SEE) based in Zagreb, with the aim of raising capital for startups and enabling trading of its stakes via an innovative blockchain-based system. Following that, Progress Market, a multilateral trading platform (MTP), was established in 2018. In 2019, the Progress Market became registered as an SME Growth Market, making it one of the first such markets in Europe. In 2020, ZSE experienced the introduction of its first ETF listing.

The year 2022 brought two listings of shares on the regulated market and six listings on the basis of recapitalization, as well as the listing of five bonds. A special novelty on the market was the listing of the first "green" bond. In Q1 2023 the Republic of Croatia raised more than EUR 2.3 billion in its first government bond issue aimed primarily at retail investors.

The 2022 year started with great trade statistics and positive market vibrancy, however, February and the beginning of the war conflict in Ukraine brought intense trading, with corrections of indices and market capitalization. Nevertheless, the continuation of the year brought mostly positive sentiment, so the year ended with only a -1.5% correction in the turnover of shares within the offer book, while the total turnover was as much as 16.5% higher than the year before. At the same time, ETFs had a significant increase in turnover, which were traded 68.4% more than in 2021. The market value measured by market capitalization was corrected, in the case of stocks -2.6%. Overall, the Croatian stock market can be considered content as domestic indexes experienced comparatively lower drops than major global stock market indexes, which saw some of the most substantial losses since 2008.

The introduction of the euro as Croatia's official currency on January 1, 2023, as well as its entry into the Schengen Area, have been the most significant changes overall. Entry into Eurozone represented a significant step in Croatia's integration into the European Union and its economy, as the euro is the official currency of many of the EU member states. Moreover, joining the eurozone requires meeting certain economic and financial criteria, which can help ensure greater stability and predictability in the economy and can increase foreign investment in the country. Elimination of currency risk will play an important role in potentially increasing interest in the Croatian capital market, strengthening investor confidence, and giving the market an opportunity to improve its investor base, with potentially lower financing costs. Joining the eurozone facilitates integration into global economic flows, and the "safety net" of the eurozone gives investors a certain certainty that there are additional solutions in case of Croatia's financial needs, providing another protective layer for the economy and financial market.

Joining the Schengen Area will further enhance the country's integration into the EU, as it will allow for the free movement of people across borders without the need for passport controls. This can have significant benefits for the country's economy, as it can increase tourism and facilitate trade and business transactions between Croatia and other Schengen countries.

2. Overview of the local stock exchange and listing segments (markets)

The ZSE carries out the exchange of securities using a digital trading system called Xetra T7 since 2017, allowing all users to participate in real-time trading. The trading system is both order and a quote-driven system. An instrument may be traded continuously or in auction trading. Orders are executed by order of priority based on price and time of input.

Trading takes place during regular business hours, from 9:00 AM to 4:30 PM CET, and there is a pre-trading period from 8:00 AM to 9:00 AM CET.

2.1. Regulated market

According to Croatian legislation, a regulated market is a multilateral system led and/or managed by a market operator that meets the following conditions:

- merges or facilitates the merging of the interests of third parties for the purchase and sale of financial instruments, in accordance with predetermined unequivocal rules and in a manner that leads to the conclusion of contracts in connection with financial instruments that are listed for trading according to its rules and/or in the system;
- has approval as a regulated market; and
- operates regularly in accordance with the provisions of the Croatian Capital Markets Act (*Official Gazette no. 65/18, 17/20, 83/21, 151/22*; CMA).

The operation as a market operator of a regulated market in Croatia can only be managed by a stock exchange based in Croatia, based on the approval of the Croatian Financial Services Supervisory Agency (Hanfa). The market operator can be the regulated market itself. The stock exchange is obliged to choose a trading system for trading on a regulated market, which is governed by the principles of **(i)** efficiency, **(ii)** econ-

omy, **(iii)** functionality of the trading system, and **(iv)** investor protection.

In the Republic of Croatia, there is one regulated market and it is managed by Zagrebacka burza d.d. (ZSE) as a market operator.

According to the CMA, the stock exchange operates a regulated market consisting of a **(i)** regular market and an **(ii)** official market. The stock exchange is authorized to impose more stringent regulations on certain segments of the regulated market beyond what has already been prescribed by the CMA, and the ZSE has exercised this authority with its Prime Market.

Consequently, ZSE entails the following listing segments:

- Prime Market;
- Official Market; and
- Regular Market.

The financial instruments which may be traded on the regulated market are those for which the ZSE has obtained Hanfa's approval or in respect of which the approval stems from the provisions of the CMA. According to the ZSE web page, these are specifically:

- shares or other securities equivalent to shares that represent an interest in the capital or in the shareholders' rights in a company, as well as depositary receipts;
- bonds and other types of securitized debt, also including depositary receipts related to such securities;
- any other securities which entitle their holders to acquire or sell such negotiable securities or which constitute the grounds for a cash payment of the amount determined on the basis of negotiable securities, currencies, interest rate or yields, commodities, indices, or other measures of size;
- money market instruments: treasury bills, central bank bills and commercial paper, certificates of deposit, and other instruments which are customarily traded on the money market; and
- units in collective investment undertakings, in accordance with the provisions of the CMA.

Not all financial instruments may be listed on all market segments, e.g., shares may be listed on any of the three segments, debt securities may be listed on the Official or the Regular Market, while structured products and units in open-end investment funds may only be listed on the Regular Market.

2.2. Non-regulated market

Pursuant to the CMA, a multilateral trading platform (MTP) is a multilateral system that brings together the supply and demand for financial instruments of several interested third parties. MTP can be managed by an investment company or a market operator that receives approval from Hanfa. The basic feature of the MTP is the lower transparency requirements compared to the regulated market and, related to this, the higher risk of investing in financial instruments traded on the MTP.

ZSE operates a multilateral trading platform called the Progress Market, which is a trading facility for small and medium-sized enterprises in Croatia and Slovenia. The collaboration between the Zagreb and Ljubljana Stock Exchanges allows these companies to raise capital in both countries. Investors should be aware that the Progress Market has lower transparency requirements for issuers, which increases the risk associated with investing in securities traded on this market. However, the ZSE ensures that regulatory information, including financial statements and information about securities traded on the Progress Market, is publicly available to ensure fair and orderly trading and pricing. Issuers are obligated to publicly disclose any information required by ZSE Rules, and the market is subject to regulations designed to prevent and detect market abuse.

3. Key Listing Requirements

Listing requirements differ for different financial instruments, as well as for different market segments.

Pursuant to the provisions of the CMA, ZSE as a stock exchange is obliged to prescribe and apply the acts regulating the general terms of business of the stock exchange and the regulated market that it manages. One of the obligatory contents of such acts is provisions on financial instruments that can be traded on a regulated market, including listing requirements.

Consequently, the Rules of the Zagreb Stock Exchange (ZSE Rules) prescribe the following general listing requirements for financial instruments:

- fulfillment of conditions prescribed by CMA, applicable EU legislation, ZSE Rules, and other ZSE internal acts;
- can be traded fairly, orderly, and effectively;
- the issuer's legal status must comply with either the laws of the Republic of Croatia or the regulations of the country of the issuer's registered seat;
- the issuer must fulfill the obligation to publish the prospectus and/or other information if such obligation is prescribed by the provisions of the CMA or other regulations;
- financial instruments must be issued in accordance with the regulations that apply to them and freely transferable;
- effective settlement of transactions must be ensured, whereby it is assumed that this condition is met if the financial instruments are issued in dematerialized form and registered in the central depository, i.e., the central register and included in the settlement and/or settlement system;
- issuers of financial instruments that are listed on the regulated market are required to use LEI;
- no pre-bankruptcy or bankruptcy proceedings, extraordinary administration proceedings, or liquidation proceedings have

been opened against the issuer.

3.1. ECM

In addition to the requirements listed above, for shares to be listed on the Regular Market, ZSE Rules prescribe the condition of at least 15% free float. Exceptionally, shares may be listed even if they do not meet the free float condition if, considering the large number of shares of the same type and the percentage of distribution to the public, the market can function properly.

For shares to be listed on the Official Market, they should fulfill the following additional requirements.

- Free float of at least 25%, while the stated percentage of shares must be distributed to at least 30 shareholders;
- Exceptionally, shares may be listed even if they do not meet the free float condition if, given a large number of shares of the same type and the percentage of distribution to the public, the market can function properly. It is considered that the market can function properly if at least 10% of the shares are distributed to at least 50 shareholders;
- The issuer must have an established investor relations function with at least one person who has the necessary knowledge and skills in the field of investor relations, which knowledge has to be continuously maintained at an appropriate level.

The Prime Market segment states the following requirements for the listing of shares:

- Free float of at least 35% and a minimum of 1,000 shareholders;
- The expected market capitalization must amount to at least EUR 65 million;
- The issuer is required to establish a market-making agreement with a minimum of one market maker;
- The issuer's supervisory board must have at least one independent member who is not in business, family, or other ties with the issuer, majority shareholder, or group of majority shareholders or members of the board or supervisory board of the issuer or majority shareholder;
- At least one member of the audit committee must be independent of the issuer;
- The auditor's opinion in the audit report should not be altered or modified;
- The amount of fees paid by the issuer to the statutory auditor or audit firm is below the limit specified in Article 4(3) of *Regulation (EU) No 537/2014*. Otherwise, the company is required to disclose information on the audit committee's discussion regarding any risks to the auditor's independence, measures taken to address those risks, and whether the audit will be subject to a quality control check by another auditor before the audit report is issued;
- If the subject of the request for listing on the Prime Market is shares already listed on the regulated market, the issuer of the shares must not have a market protection measure imposed in accordance with the ZSE Rules in the period of one year before the date of submission of the request for listing on the Prime Market.

3.2. DCM

In order to be listed on the Regular Market, fulfillment of the general requirements is sufficient.

To be listed on the Official Market, the general requirements must be met, including the CMA condition that requires the nominal amount of debt securities in the application for listing on the Official Market to be at least EUR 200,000.

Finally, the Prime Market is a specialized market on the ZSE for trading equities, and debt instruments cannot be listed on this market.

4. Prospectus Disclosure

The CMA and the *Regulation (EU) 2017/1129* (Prospectus Regulation) and relevant by-laws govern the rights and obligations related to public offering and listing of securities on regulated markets in Croatia. The Prospectus Regulation fully applies from July 21, 2019.

Additionally, implemented and delegated acts of the EU based on the Prospectus Regulation, as well as guidelines, questions, answers, and other documents issued by the European Supervisory Authority for Securities and Capital Markets (ESMA) are also part of this regulatory framework.

The prospectus is compulsorily published, with the exception of exemptions and prescribed exceptions, in the following cases:

- public offers of securities in the territory of the Republic of Croatia; and
- listing of securities on the regulated market in the Republic of Croatia.

One such exemption was implemented into the CMA pursuant to the Prospectus Regulation, i.e., that public offers of securities with a total amount of securities fees collected in the European Union of less than EUR 8 million calculated over a period of 12 months are exempt from the obligation to publish a prospectus.

The prospectus may not be published without the prior approval of the competent authority of the home Member State, i.e., Hanfa. When Croatia is the home Member State, Hanfa is responsible for approving the prospectus, registration document, and universal registration document as well as their amendments, for approving the notice on the security and the summary of the prospectus, and everything related to the securities that will be offered to the public or for which requires

their inclusion on the regulated market in Croatia.

The prospectus can be created as:

- unique prospectus (contains all information in one document); or
- split prospectus (all information is listed in several separate documents) containing:

i. registration document (contains information about the issuer),

ii. security notification (contains information about securities that will be offered to the public, i.e., listed on the regulated market), and

iii. a summary of the prospectus, if applicable (it briefly and using common terms presents key information that enables the investor to understand the characteristics and risks associated with the issuer, guarantor, and securities).

The prospectus must contain all information that, taking into account the nature of the issuer and the securities offered to the public, i.e., for which listing on the regulated market is required, the investor needs for an informed assessment:

- assets and liabilities, financial position, profit and loss, expectations and development possibilities of the issuer and guarantor;
- rights arising from securities;
- risks associated with the issuer and securities.

The information contained in the prospectus must be accurate and complete, and the prospectus must be consistent. The prospectus should be readable and understandable, and the information in the prospectus must be presented in such a way that it can be understood and easily analyzed.

Delegated Regulation (EU) 2019/980 on the format, content, scrutiny, and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market (*Regulation 2019/980*) prescribes in detail the structure and content of the prospectus.

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

Regulation 2019/980's Annex 1 prescribes the contents of the registration document for equity securities.

Among others, such registration documents should include;

- Information on responsible persons, information on third parties, expert's reports, competent authority approvals;
- Information on statutory auditors;
- A description of the material risks that are specific to the issuer;
- Business overview;
- Trend information, profit forecasts, or estimates;
- Organizational structure, administrative, management and supervisory bodies and senior management, remuneration and benefits, employees, major shareholdings, related party transactions;
- Operating and financial review;
- Capital resources;
- Regulatory environment;
- Financial information concerning the issuer's assets and liabilities, financial position and profits and losses, etc.

Annex 11 further prescribes the contents of securities notes for equity securities or units issued by collective investment undertakings of the closed-end type.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

In the case of non-equity securities, in accordance with the conditions prescribed by the Prospectus Regulation, it is possible to create a basic prospectus.

The basic prospectus can also be drawn up as a single document or as separate documents and must contain the following:

- information contained in the registration document or universal registration document;
- information that would otherwise be contained in the relevant securities notice not including the final terms, if the final terms are not included in the basic prospectus;
- a summary with the final conditions that are specific to a particular issue (this summary is not the same as the prospectus summary).

Final terms and a summary of final terms may or may not be included in the base prospectus or its supplement. If the final conditions are not included in the basic prospectus or its supplement, the issuer publishes them publicly and submits them to the competent authority of the home Member State as soon as possible during the public offer and, if possible, before the start of the public offer of securities or listing for trading on a regulated market. The competent authority of the home Member State does not approve the publication of the final conditions and the summary with the final conditions.

Regulation 2019/980's Annex 6 prescribes the contents of the registration document for retail non-equity securities.

Among others, such registration document should include;

- Persons responsible, third-party information, experts' reports, and competent authority approval;
- Statutory auditors;
- A description of the material risks that are specific to the issuer and that may affect the issuer's ability to fulfill its obligations under the securities;
- Information about the issuer,

- Business overview;
- Trend information, profit forecasts, or estimates;
- Organizational structure, administrative, management, and supervisory bodies, major shareholdings;
- financial information concerning the issuer's assets and liabilities, financial position, and profits and losses.

Annex 14 further prescribes the securities note for retail non-equity securities.

4.3. Local market practice considerations

There is no local market practice consideration worth highlighting since local regulation usually points to the EU law and EU practices. Unfortunately, the Croatian capital market is rather scarce and still developing.

4.4. Language of the prospectus for local and international offerings

The language of the prospectus is prescribed by the CMA, in relation to *Regulation (EU) No. 2017/1129*.

Regarding local offerings, i.e., cases when an offer of securities to the public is made or admission to trading on a regulated market is sought only in Croatia as the home state, the prospectus should be drawn up in the Croatian language.

For international offerings, where the Republic of Croatia is the home Member State, and a public offering of securities or listing on a regulated market is required in one or more Member States, including or excluding Croatia, the prospectus should be drawn up in either Croatian or English, at the choice of the issuer, offeror or person who seeks to list for trading on a regulated market.

However, if Croatia is a host Member State and the prospectus is not written in Croatian, in such cases the summary of the prospectus must be available in the Croatian language.

When Croatia is the host Member State, and the basic prospectus, the final conditions, and the summary of the individual issue are not drawn up in Croatian, the translation of the summary of the individual issue attached to the final conditions must be available in Croatian.

In cases where Croatia is the home Member State, and a public offer of securities or listing on a regulated market is required in one or more Member States, with the exception of Croatia, the basic prospectus, final terms, and summary of each issue are drawn up in Croatian or English, according to the choice of the issuer, offeror or person requesting listing for trading on the regulated market. Furthermore, in cases where Croatia is the home Member State, and a public offering of securities or listing on a regulated market is required in one or more Member States, including Croatia, the basic prospectus, final terms, and summary of each issue are to be drawn up in Croatian or in English language, according to the choice of the issuer, offeror or person requesting listing for trading on the regulated market. When the basic prospectus, final terms, and summary of a particular issue, according to the choice of the issuer, offeror, or person seeking listing for trading on the regulated market, are drawn up in English, the summary of the particular issue must be available in Croatian.

Prospectuses for admission to trading on the regulated market of non-equity securities and admission to trading on the regulated market in one or more Member States may be drawn up in Croatian or English, at the choice of the issuer, offeror, or person requesting listing for trading on the regulated market, regardless of whether the admission is carried out in Croatia as a home Member State. The same rule applies in case Croatia is a host Member State.

5. Prospectus Approval Process

5.1. Competent authority/regulator

In accordance with the provisions of the CMA, Hanfa is the authority responsible for the implementation of the Prospectus Regulation in the territory of the Republic of Croatia, which includes making a decision on the request for approval of the prospectus of a public offer of securities and/or the listing of securities on a regulated market in accordance with the provisions of the Prospectus Regulation (when the Republic of Croatia is the home Member State and when the approval of the prospectus has been transferred to Hanfa in accordance with the Prospectus Regulation) and conducting supervision over the implementation of the Prospectus Regulation and CMA in part of the offer of securities to the public and listing of securities on the regulated market.

The process of checking and approving the prospectus is done in accordance with the provisions of *Regulation 2019/980*.

5.2. Timeline, review, and approval process

Hanfa's Guidelines on the verification and approval of the prospectus and on the execution of other obligations in connection with the public offer and listing of securities on the regulated market dated January 19, 2023, prescribe the approval process in detail.

The request for the approval of the prospectus, together with the appropriate attachments, is submitted by the applicant to Hanfa in electronic form, by direct access to the Hanfa reporting system using the appropriate interface on the Hanfa website, in the manner prescribed by the Technical Instructions for the preparation and delivery in electronic form of the request for the approval of the prospectus in connection with the public offer and listing of securities on the regulated market, published on Hanfa's website.

Hanfa will confirm the receipt of the request electronically to the applicant at the email address of the contact person.

Pursuant to the Prospectus Regulation, Hanfa is obliged to

notify the issuer, the offeror, or the person asking for admission to trading on a regulated market of its decision regarding the approval of the prospectus within 10 working days of the submission of the draft prospectus.

If the issuer does not have any securities admitted to trading on the regulated market, and if their securities are not listed on a regulated market, the time limit for reviewing the prospectus is extended from 10 to 20 working days. However, this extension only applies to the first submission of the draft prospectus. If any further submissions are required, the standard 10-day time limit will apply. If the competent authority doesn't make a decision on the prospectus within the given time frame, this should not be considered as approval of the application.

If Hanfa, while reviewing the prospectus at the request of the applicant, finds that the draft prospectus is incomplete, unclear, or inconsistent with the standards for verifying information in relevant regulations, it will ask the applicant to make necessary changes or additions to the prospectus and/or supporting documents. The specific deadline for submitting amendments and/or additions to the draft prospectus and/or documentation, as set by Hanfa, will depend on the complexity and scope of the requested changes and whether the applicant needs to involve other individuals to make the changes. The applicant has the option to request an extension of the deadline set by Hanfa for submitting changes and/or additions to the draft prospectus and/or documentation before the deadline expires. Hanfa will approve the applicant's request for an extension of the deadline if it finds the reasons for the extension to be valid and if the requested deadline extension is adequate.

Once Hanfa confirms that the application is complete and meets all the requirements set forth by the CMA, the Prospectus Regulation, and *Regulation 2019/980*, it will notify the applicant via email to the contact person's email address provided by the applicant, with an invitation to submit a final draft of the prospectus for approval. The application is considered proper when all the necessary documentation is attached and the draft prospectus is complete and complies with the regulatory framework for public offerings of securities and listing on regulated markets.

Subsequently, Hanfa will make a decision regarding the approval of the prospectus.

Following the approval of the prospectus, the applicant is required to make the prospectus available to the public within a reasonable timeframe, and at the latest, at the beginning of the public offer or listing of securities on the regulated market to which the prospectus refers. In the case of an IPO of a specific class of shares that are listed on a regulated market for the first time, the applicant should make the prospectus available to the public at least six working days before the end of the offering.

If new information arises between the approval of the prospectus and the conclusion of the offer period or the beginning of trading on the regulated market, which could significantly impact the valuation of securities, a supplement to the prospectus should be issued. This supplement must state any significant new factor, material error, or inaccuracy related to the prospectus information, without undue delay. Hanfa approves the supplement to the prospectus in the same way as the prospectus, and the applicant should publish it in the same way as the prospectus, with information relevant to the securities.

Hanfa shall notify ESMA of the approval of the prospectus and any supplement thereto.

6. Listing Process

6.1. Timeline, process with the stock exchange

The decision to list financial instruments on a regulated market rests with the ZSE. To apply for listing, interested parties are to submit a written application on a form provided by ZSE, which can be found on their website. It's important to note that the request for listing should include all shares of the same type, except in exceptional cases specified by the CMA, i.e., equally ranked debt securities.

The issuer or a person authorized by the issuer may submit a request for the inclusion of financial instruments on the regulated market. However, in exceptional cases, transferable securities may be listed without the issuer's consent, provided that the CMA, ZSE Rules, and other relevant regulations are met. Additionally, a request for listing may be made by another party in accordance with the regulations governing the rehabilitation of credit institutions and investment companies. If shares of an open-ended investment fund are to be listed on the regulated market, it is the responsibility of the management company to submit the request for a listing.

According to the ZSE rules, the applicant is obliged to attach to the application for inclusion:

1. the prospectus and/or other information or a statement that it uses some of the rights to an exception from the obligation to publish the prospectus and/or other information;

2. a statement that it has fully acted in accordance with the provisions of the CMA and other regulations and that it has all the prescribed approvals and consents of the competent authorities;

3. copies of all approvals and consents issued by the competent authority related to the listing procedure;

4. a statement that it was informed by ZSE about the obligations arising from the listing of its financial instruments on the regulated market, upon the first listing of financial instruments for trading on the regulated market;

5. a statement confirming that it has established appropriate

internal organization, systems, and procedures that ensure timely availability of information to the market, with information on the person in charge of relations with investors; and

6. proof of paid fee for listing in accordance with the price list.

Further requirements are set out by ZSE Rules depending on the type of financial instruments. The ZSE Rules prescribe additional documentation for **(i)** shares, **(ii)** debt securities, **(iii)** structured products, **(iv)** shares of open-end investment funds, **(v)** closed-end investment funds, and **(vi)** money market instruments.

Pursuant to the CMA, ZSE is to inform Hanfa about any requests received for the listing of financial instruments, and also inform them of their decision on whether to approve or reject the request. ZSE should make a decision within 30 days of receiving the application, and notify the applicant accordingly. However, in certain circumstances, the deadline may be extended to 60 days. If ZSE does not reach a decision within the stipulated timeframe, the request for listing will be considered rejected. In such cases, the applicant has the option to challenge the decision with the competent commercial court.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

The latest edition of the *Corporate Governance Code* (Code) came into force on January 1, 2020. The Code was drafted by ZSE and Hanfa, with the European Bank for Reconstruction and Development providing assistance. The Code is relevant to all companies whose shares are listed on the regulated market of the ZSE, except for shares of closed-end investment funds.

Certain sections of the Code coincide with obligatory legal rules and guidelines set by the ZSE. However, in many instances, the Code's regulations are more comprehensive or impose more rigorous criteria than the required legal provisions or other ZSE regulations.

Companies ought to fill out two questionnaires once a year: one to state whether the company has complied with each provision of the Code (the compliance questionnaire) and the other to provide more detailed information about its corporate governance practices (the governance practices questionnaire). Both questionnaires are submitted to Hanfa, and the compliance questionnaire is published.

The Code prescribes topics of **(i)** leadership, **(ii)** duties of management and supervisory board members, **(iii)** appointment of management and supervisory board members, **(iv)** supervisory board and its committees, **(v)** management board, **(vi)** receipts of management and supervisory board members, **(vii)** risks, internal control and auditing, **(viii)** disclosure and transparency, **(ix)** shareholders and general assembly and **(x)** stakeholders and corporate social responsibility.

In principle, the Code sets out the following requirements for the supervisory board, its committees, and the management board.

Supervisory board

The composition of the supervisory board should be designed to enable the effective execution of strategic and supervisory tasks, encourage diversity of ideas in discussions, and make independent and objective assessments. The supervisory board should be provided with the necessary policies, procedures, data, time, and resources to operate effectively and efficiently. To aid in fulfilling its responsibilities, the board should establish committees and ensure that they have the appropriate structure and resources. All supervisory board and committee members are to conduct their responsibilities with diligence and allocate sufficient time to their duties.

The supervisory board must include members of different genders, ages, profiles, and experiences to ensure diversity of perspectives when making decisions. The chairman or deputy chairman of the supervisory board must be independent, as should the majority of the other supervisory board members.

Supervisory board committees

The supervisory board is required to establish an appointment committee, a remuneration committee, and an audit committee, with each committee having a clearly defined mandate and activities. In cases where the supervisory board has fewer than five members, the nomination and remuneration committees may be combined. The supervisory board should ensure that committee members possess the appropriate skills, knowledge, education, and practical experience to effectively fulfill their responsibilities, with each committee consisting of at least three members, a majority of whom must be independent. Furthermore, the chairman of each committee should be an independent member of the supervisory board, while management board members cannot be members of the supervisory board. The job description for every committee must be made publicly available without any cost on the company's website. Furthermore, the company should include a comprehensive report on the activities of each supervisory board committee in the annual report. This report should contain essential information such as the number of meetings held and information on the committee members.

Management Board

The management board is primarily responsible for business, for achieving set and strategic goals, and for maintaining the reputation of a responsible and credible company. The management board should have the necessary skills, knowledge, education, experience, and diversity to successfully perform

their joint duties, while each individual member should have the appropriate expertise required for their specific duties.

7.2. Any other ESG considerations

The EU law requires large and listed companies, except micro-enterprises, to disclose information about social and environmental issues, as well as the impact of their activities on people and the environment. The *Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464*) (CSRD) became effective on January 5, 2023, enhancing the regulations regarding social and environmental information that companies should report. The new directive applies to a broader range of large companies, including listed SMEs, with the aim of making sustainability reporting accessible to stakeholders and investors to evaluate investment risks related to climate change and sustainability issues. Furthermore, the CSRD ensures transparency about the impact of companies on people and the environment, and it reduces reporting costs in the long term by standardizing the information provided.

The new rules demand companies report according to the European Sustainability Reporting Standards (ESRS), tailored to EU policies and based on international standardization initiatives. The standards will be developed by the European Financial Reporting Advisory Group (EFRAG), an independent body of stakeholders. The first set of standards will be adopted by the Commission by mid-2023, according to the draft standards published by EFRAG in November 2022.

The CSRD also requires companies to undergo an audit of the sustainability information they provide and allows for the digitalization of sustainability information. Companies must apply the new rules for the first time in the financial year of 2024, with reports published in 2025.

The aforementioned directive will affect changes to the *Accounting Act*, the CMA, and the *Audit Act* in Croatian national legislation. The national law will enable the expansion of the scope of the subjects, depending on the definition of entities of public interest, which is described to some extent in the existing and possible amendments to the *Accounting Act*.

The Code also contains provisions regarding ESG reporting. According to the Code, companies should exhibit responsible business management that prioritizes honest and ethical behavior. When making decisions about the company's strategy and plans, the management and supervisory board should consider the impact on stakeholders, the environment, and the community, as well as the company's reputation. Employees, clients, suppliers, public authorities, and local communities are all interested in the company's activities, and regular communication with these stakeholders should help the company understand its views and interests and present its position positively.

To ensure that the company's policies, culture, and values encourage ethical behavior and respect for human rights, the supervisory board and management should adopt policies related to assessing the impact of the company's activities on the environment and community, managing associated risks, preserving human rights and workers' rights, and preventing and sanctioning bribery and corruption. These policies should be publicly available on the company's website, and accompanying documents should explain how recommended actions align with them.

The supervisory board and management must also identify key stakeholders and establish effective mechanisms for regular interaction and communication with them. The supervisory board should have the right to organize meetings with external stakeholders to better understand important issues, and the president of the board should be informed in advance of these communications. The board's powers should specify the purposes for which the chairman of the board can communicate directly with stakeholders and the procedure that must be followed.

8. Ongoing Reporting Obligations (Life as a Public Company)

To make informed investment decisions, shareholders and prospective investors must have access to reliable and consistent information about listed companies. Insufficient or unclear information can discourage investment and hinder decision-making. Therefore, companies listed on the ZSE must comply with different ongoing reporting requirements, which ensures that investors have access to trustworthy sources of information when evaluating a company's management and performance.

For issuers for which the Republic of Croatia is the parent member state, the prescribed reporting obligations are:

i) periodic (permanent) information – information that is published in precisely defined periods of time,

- financial information (annual, semi-annual, quarterly reports, and other financial information);
- report on payments to the public sector.

ii) current (*ad hoc*) information – information that is published within a certain period after its creation,

- changes in voting rights;
- acquisition and release of own shares and other related information;
- changes in the number of shares with voting rights and/or the number of voting rights from those shares;
- changes related to rights from issued securities;
- holding an assembly of shareholders and holders of debt securities;
- privileged information;

- executive transactions.

Further ongoing reporting obligations are prescribed by ZSE Rules and differ depending on the type of financial instrument and the market segment it is listed on.

8.1. Annual and interim financials

The CMA stipulates the mandatory compilation and publication of issuers' annual, semi-annual, and quarterly reports, as follows:

- issuers of securities must prepare an annual report and publish it to the public no later than four months after the end of the business year;
- issuers of shares and debt securities must prepare a half-yearly report for the first six months of the business year, and publish it to the public as soon as possible, but no later than three months after the end of the first half-year;
- issuers of shares must prepare a quarterly report and publish it to the public as soon as possible, but no later than one month from the end of the respective quarter in the case of reports for the first, second, and third quarter, or no later than two months from the end of the quarter in the case of the fourth quarter report.

The issuer's annual report should always contain:

- audited annual financial statements (statement of the financial position (balance sheet), profit and loss account, statement of other comprehensive income, statement of cash flows, statement of changes in capital, and notes to the financial statements);
- management report for the observed period (annual report);
- statement of responsibility for compiling the annual report;
- audit report;
- the decision of the competent authority of the issuer on the establishment of annual financial statements; and
- a proposal for a decision on the use of profit or loss coverage.

The issuer's half-yearly and quarterly reports should contain:

- financial statements (statement of financial position (balance sheet), profit and loss account, statement of other comprehensive income, statement of cash flows, statement of changes in capital, and notes to financial statements);
- management report for the observed period; and
- statement of responsibility for compiling the report for the observed period.

The semi-annual report also contains an audit report or a report on audit insight if the semi-annual financial statements have been audited or an audit review has been carried out, or a statement that the semi-annual financial statements have not been audited or an audit review has not been carried out.

For issuers of securities based in Croatia, Hanfa has prescribed the content and structure of the issuer's annual, semi-annual, and quarterly reports, as well as the form and method of their submission to Hanfa.

8.2. Ad hoc disclosures

Below is an overview of some of the *ad hoc* information that issuers are required to publish.

i) Changes in voting rights

The CMA prescribes the parties responsible for drafting notices of changes in voting rights, the content, terms, and language of the relevant notices of changes in voting rights, as well as exemptions related to notices of changes in voting rights.

The issuer of shares is obliged to publicly publish the information contained in the received notification about changes in voting rights without delay, and no later than within two trading days from the day of receipt of such notification, and to deliver it to the media, Hanfa, in the official register of prescribed information (maintained by Hanfa) and the ZSE.

ii) Acquisition and release of own shares and other related information;

An issuer of shares that acquires or disposes of its own shares, either directly or through a person acting on its own behalf, and for the account of the issuer, is obliged, in accordance with the CMA, as soon as possible, and at the latest within two trading days from on the day of acquisition or release of own shares, to announce to the public the number of own shares (in absolute and relative amount) held after each acquisition or release of own shares. The percentage of own shares held by the issuer is calculated in relation to all shares of the issuer issued with voting rights.

Likewise, the issuer of shares is obliged at least once a year, and no later than within four months of the end of the business year, to publish information regarding its own shares to the public, which must contain the following information:

- the number of own shares (in absolute and relative amounts) that the issuer holds, either directly or through a person acting on its own behalf, and for the issuer's account, on the day of the public announcement;
- reason for acquiring and holding own shares;
- information on whether own shares were acquired on the basis of authority and under the conditions determined by the issuer's general assembly;
- information on whether the issuer has a program to buy back its own shares, with a reference to it, if applicable; and

- information on whether the issuer has an employee shareholding program.

iii) Changes in the number of shares with voting rights and/or the number of voting rights from those shares;

The issuer of shares is obliged as soon as possible, and at the latest at the end of the calendar month in which there was a change in the number of shares with voting rights into which the share capital was divided or a change in the number of voting rights from the issued shares, to announce to the public information about the changes, the new total the number of shares with voting rights and the issuer's share capital.

iv) Changes related to rights from issued securities;

The issuer of shares is obliged to announce to the public without delay any change in relation to rights from different types of issued shares, including changes in rights from derivative securities issued by the issuer that gives the right to acquire shares of that issuer.

The issuer of securities that are not shares is obliged to announce to the public without delay any change in relation to the rights of the holder of these issued securities, including changes in the conditions of these securities that may indirectly affect the respective rights, and which arose in particular due to a change in the conditions of indebtedness or interest rates.

v) Privileged information;

The issuer is obliged to publish privileged information to the public and make it available in the places and in the manner prescribed for the prescribed information and in the places and in the manner prescribed by the *Market Abuse Regulation (Regulation (EU) No. 596/2014).*

vi) Executive transactions

Persons who perform managerial duties at the issuer and persons closely related to them are obliged to report to Hanfa all acquisitions or dismissals (including pledging or lending) for their own account of shares of the issuer in which the person performs managerial duties, as well as acquisitions or dismissals of derivatives or other related financial instruments with them, immediately and no later than three working days after acquisition or dismissal.

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1. Market Overview

Energy companies were the winners of the year 2022 in Hungary, but the fall in the domestic stock market was slightly larger than in global markets. Although Hungarian companies have produced outstanding results, this is not reflected in their prices. Special taxes are making business life difficult for the biggest players, and the market is seeing fewer and fewer foreign investors, but the deterioration in the exchange rate and uncertainty over the arrival of EU funds are not helping the Hungarian stock market.

The majority of Hungarian market players have generally performed worse than their industry peers, with the BUX down 13% (compared to a drop of 5% in Paris, 8% in Frankfurt, and around 6% on the DOW), despite the fact that the second and third quarters of the Hungarian stock market were the most profitable quarters in the history of the Hungarian stock market.

Hungarian domestic legislation of the capital market has no key accounting changes for 2023, however, the EU does.

In March, the Council adopted a redesigned regulatory framework for European long-term investment funds (ELTIF) which makes these types of investment funds more attractive. In particular, the scope of eligible assets and investments, the portfolio composition and diversification requirements, the conditions for borrowing and lending cash, and other rules of the fund, including sustainability aspects, were clarified. The package also includes rules to make it easier for retail investors to invest in ELTIFs while ensuring strong investor protection.

The Commission presented its capital markets union package including the ELTIF proposal on November 25, 2021. The Council adopted its position on the proposal on May 24, 2022. Negotiations with the European Parliament ended in agreement on October 19, 2022. The European Parliament voted on the text on February 15, 2023. This formal adoption in the Council is the final step in the legislative process.

This effort is part of the capital markets union (CMU), a plan to create a single market for capital in order to get investments and savings flowing across all member states for the benefit of citizens, businesses, and investors. ELTIFs are the only type of funds dedicated to long-term investments which can be distributed on a cross-border basis to both professional and retail investors. Since ELTIFs are designed to channel long-term investments, they are well-placed to help finance the green and digital transitions.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

The Budapest Stock Exchange (BSE) is the second largest stock exchange in Central and Eastern Europe in terms of market capitalization and liquidity, and the official trading venue for publicly issued Hungarian securities. The exchange is currently owned by listed companies, Hungarian private investors, and the Hungarian National Bank (MNB). The Budapest Stock Exchange is a member of the World Federation of Stock Exchanges and the European Association of Stock Exchanges.

The Budapest Stock Exchange handles the entire volume of trading in Hungarian securities and a significant part of Central and Eastern European trading. Trading takes place exclusively via an electronic platform. The price of shares listed on the system is the reference price for the Hungarian capital market and the most well-known Hungarian stock exchange index, the BUX, is calculated on this basis.

On the BETa Market of the Budapest Stock Exchange, investors can trade with foreign equities. Equities bought here are identical in every way to those traded on foreign markets. Trading is conducted in Hungarian forints, thus the BETa Market offers access to the equities of several European companies issued in foreign currency without the need to face currency conversion costs.

2.2. Non-regulated market

BSE Xtend

Xtend, a multilateral trading facility (MTF) created and operated by the BSE, provides companies with a facilitated form of a listing on the capital market, with lower fees, easier conditions, and special support instruments. In this way, it allows businesses to become gradually used to the obligations and transparency that accompany a presence on the stock exchange.

Companies may list their shares on BSE Xtend without prior public transaction, in order to become used to stock exchange transparency and to learn how to fulfill the disclosure obligations set out by the *Capital Market Act* and the BSE. Xtend, which operates under looser conditions, is also an ideal choice for businesses that privately raise capital prior to going public, and list their shares on BSE Xtend after raising equity. This form of going public is called technical listing.

SME markets similar to Xtend are called multilateral trading facilities (MTFs) by international regulation. These markets differ from traditional stock exchanges (so-called regulated markets) in their level of regulation, as in terms of functionality they offer issuers and investors the same. This includes the benefits provided by public operation or the opportunities for raising funds on the stock exchange, as these are also available on BSE Xtend. As mentioned above, companies that opt for BSE Xtend have an additional opportunity compared to the BSE's regular markets in that they can float their stocks after raising private capital without an actual IPO, by way of a so-called technical listing.

BSE Xbond

In July 2019, based on international best practices, the Budapest Stock Exchange launched BSE Xbond, a new market segment for secondary bond trading. BSE Xbond is closely related to the *Bond Funding for Growth Scheme* (BGS) of the Hungarian National Bank, Hungary's central bank, and offers an alternative trading venue for companies planning to issue bonds. The new market aims for professional investors by setting the minimum face value of bonds eligible to BSE Xbond trading at EUR 100,000 (or its equivalent if denominated in a different currency). Nevertheless, private investors may also invest in bonds registered on BSE Xbond indirectly, for example via investment or mutual funds, or insurance products.

OTC

Over the Counter (OTC) trading is an organized market that lags behind the stock exchange in terms of organization and concentration. Its name derives from the fact that investors participate in this market through intermediaries, with the help of banks and other intermediaries and brokerage firms. There is no standardized trading as on the stock exchange, but transactions between traders are basically carried out by telephone, using computer systems. While the bulk of equity trading takes place on the stock exchange, the focus for government securities is more on OTC markets.

3. Key Listing Requirements

3.1. ECM

The BSE has three different markets having different listing requirements (Xtend, Standard, Premium). Two of the markets are considered regulated markets.

Minimum requirements for the Standard category:

- The market value of the series of shares to be listed has to be at least HUF 250 million
- Free float: At least 10% of the series to be listed is free float; or at market prices, shares to the value of at least HUF 100 million are free float; or the series of shares is, at the time of listing, in the possession of at least 100 owners.
- No equity class requirements.
- Corporate governance report: no obligation to disclose at listing (only after listing with each annual report).
- Business year: One full, completed, audited year (discretion is possible)
- The method of listing: no public transaction requirement (technical listing is possible)

Minimum requirements for the Premium category:

- The market value of the series of shares to be listed has to be at least HUF 5 billion
- Free float: At least 25% of the series to be listed is free float; or at market prices, shares to the value of at least HUF 2 billion are free float; or the series of shares is, at the time of listing, in the possession of at least 500 owners.
- Equity class: only common shares may be admitted.
- Corporate governance report: mandatory to disclose at listing (also afterward annually, together with the annual report).
- Business year: three full, completed, audited years (discretion is possible).
- The method of listing: public transaction (one-year grace period).

There are additional administrative requirements for listing for both markets.

3.2. DCM

There are no further requirements for the listing of bonds, mortgage bonds, investment fund certificates, debt securities issued by an international financial institution, and compensation certificates other than the general listing conditions.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

According to *Act CXX of 2001 on the Capital Market*, the provisions of the chapter on the "offering of securities and their admission to trading on a regulated market" apply in addition to *Regulation 2017/1129/EU*. Therefore, the provisions of the *Capital Market Act* complement the provisions of *Regulation 2017/1129/EU* on the prospectus to be published.

Basically, the issuer, the offeror, or the person requesting admission to trading on a regulated market shall publish a public prospectus under *Regulation 2017/1129/EU* (prospectus) in connection with the offer of securities to the public and/or their admission to trading on a regulated market. Publication of the prospectus is conditional upon the approval of the authority.

However, instead of publishing a prospectus, a summary prospectus shall be prepared subject to the content requirements set out in Annex 3 of the *Capital Market Act* for the offer of securities to the public where the offer value of the securities remains for a period of twelve months less than one million euro or equivalent at European Union level, and the offer of securities to the public cannot be covered by either of the cases provided for in Article 1(4) of *Regulation 2017/1129/EU*.

There are also special rules on the offering of government securities or securities guaranteed by a Member State of the European Union, or debt securities issued by the central bank of any Member State of the European Union to the public or their admission to trading on a regulated market. If they are offered or admitted to trading on a regulated market only in Hungary, a public-offer prospectus and public offer as illustrat-

ed in Annex 2 of the *Capital Market Act* shall be published.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

According to the *Capital Market Act*, securities include bonds or other forms of securitized debt, including depositary receipts in respect of such securities. According to this, the same rules apply to debts.

4.3 Local market practice considerations

To start trading, – based on the requirements determined by BSE – the company must publish the following required information on the official publication site of the Exchange and on the official publication sites:

- the prospectus prepared for the listing on the exchange;
- the statutes of the company;
- information on the language approved by the MNB (English or Hungarian) for the fulfillment of reporting obligations during the period of continued trading of the company's securities;
- the ownership structure;
- the name and address of the Registrar of Shares.

4.4. Language of the prospectus for local and international offerings

Pursuant to Article 27 of the *Prospectus Regulation* and the provisions of *MNB Regulation No. 28/2013 (XII. 16.)* on the languages generally used in international financial markets and adopted by the Hungarian National Bank, the prospectus must be prepared in Hungarian or English and the summary in Hungarian for approval by the MNB.

Where the securities are intended to be offered to the public in another Member State, the summary shall be available in the official language or one of the official languages of the host Member State or in any other language accepted by the **competent authority of the host Member State.**

5. Prospectus Approval Process

5.1. Competent authority/regulator

The Hungarian National Bank (MNB) is responsible for authorizing the publication of the prospectus (and for issuing the official certificate certifying the authorization of other EU Member States' supervisors).

5.2. Timeline, review, and approval process

Administrative service fee for the procedure

Pursuant to Article 18/A (1) of the *14/2015. (V. 13.) MNB Decree*, an administrative service fee of HUF 1.1 million shall be payable in the manner specified in Article 20 of the decree.

Documents to be submitted

Article 42 of *Regulation 2019/980* specifies the documents to be submitted.

Procedural deadlines

The procedural deadlines are set out in Article 20 of the *Prospectus Regulation*. On the basis of this provision, the MNB will, as a general rule, take a decision within 10 working days and notify the person making the application. If the MNB does not take a decision within this period, the failure to do so does not constitute approval of the application.

As a general rule, the MNB has 10 working days to respond to a deficiency notice. The above 10 working day time limits will be extended to 20 working days if the public offer concerns securities issued by an issuer that has not yet admitted any of its securities to trading on a regulated market and has not previously made a public offer of securities. For frequent issuers, the above time limits are reduced to five working days, with the requirement that frequent issuers must notify the MNB at least five working days before the planned date of submission of the request for approval.

6. Listing Process

6.1. Timeline, process with the stock exchange

Listing on the Stock Exchange is a multi-step process, the time and complexity of which depends on the "type" of listing the company wishes to carry out, among the following options.

- "Simple listing" without raising capital (issuing new shares) or offering existing shares to the public (exit). In this case, by going public, the company creates the possibility of a flexible form of subsequent financing. At the same time, the company "learns" to meet the obligations of being listed, while having the opportunity to compete in the public arena on an ongoing basis. If the company performs well during its listing, it can raise capital on more favorable terms. This option may be chosen, for example, if the company does not need additional capital immediately upon listing and if the shareholders only wish to dispose of part or all of their shareholding in the medium or longer term. On the other hand, there is, of course, the burden that the company takes on by going public, which it must bear even before the actual raising of funds or exit.
- "Classic listing", i.e., a listing where the listing is accompanied by the offering of a block of shares to the public, the issue of new shares, or a sale of shares by way of a share deal or a sale of shares by way of an ownership stake, or a combination of both.

The listing process consists of the following steps:

Preparation of a brochure

Preparation of the prospectus: The most important basic doc-

ument of the listing is the prospectus, which should contain all information concerning the economic, market, financial, and legal situation of the issuer (and their expected development) so that investors have the broadest possible information to make their decisions. This prospectus should prominently state if the shares are intended to be listed on a stock exchange and, as a key risk factor, if no investment firm is involved in its preparation. The prospectus drawn up for admission to trading on BSE must normally be submitted to the MNB for approval, which will then decide within 10 (maximum 20) working days and issue its authorization to publish the prospectus. As a consequence of EU accession, the BSE will also accept prospectuses approved by any other EU supervisory authority on the basis of the "single passport" principle. The requirements for the content of prospectuses at the EU level are laid down in the Prospectus Regulation.

Preparation of listing documentation:

The listing documentation consists of two parts: the listing application and the accompanying declaration and other documents. A listing particulars form is available for the application, which contains all the necessary elements of the application and a list of other documents to be submitted. The applicant may choose to proceed with the listing procedure in English or Hungarian. If the listing is not accompanied by a public sale or a public capital increase, the involvement of an investment service provider is not mandatory.

Official submission of listing documentation to the stock exchange:

The Exchange may publish a notice on its website upon receipt of the application for listing and will then start examining the materials. The Exchange has 30 days from receipt of the application to take a decision. However, the listing procedure is greatly simplified and expedited by the use of the listing form prepared by the Exchange and the submission of the completed documentation for preliminary review. The decision on the classification of the series of shares and the starting date for trading will be taken by the Exchange, taking into account the information provided in the application.

Stock exchange categories:

The series of shares can be admitted to two different regulated market categories and to Xtend, the multilateral trading platform operated by the Exchange. The Exchange's system of categories provides information on the differentiation of listed companies according to certain investor criteria. The Stock Exchange wishes to ensure that listing is as simple as possible and therefore technical admission may be chosen as a method of listing for the Standard Class of Shares and for Xtend. For the Standard Class of Shares, the Exchange has set requirements similar to those for the Premium Class of Shares, relating to the size of the series to be admitted (total value in terms of price), the ownership (public shareholding), and the duration of the company's operation. For admission to the Premium Class of Shares, the Exchange requires a public sale of shares but may grant a grace period of one year from the date of admission, provided that the Issuer meets the other conditions required for the Class. The Premium Class of Shares includes a series of shares of companies with a more liquid and broader investor base.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

The supreme body (general meeting) and the executive officer are mandatory for all companies.

The supreme body functions as the decision-making organ of the members of the business association. The principal duty of the supreme body of a business association is to adopt decisions on fundamental business and personnel issues.

The executive officer shall manage the operations of the business association independently, based on the primacy of the business association's interests. The executive officer may not be instructed by the members of the business association and his competence may not be negated by the supreme body. Limited companies shall be managed by the management board, which is comprised of at least three natural persons. Where so provided for by the articles of association of private limited companies, the general director shall function as the chief executive officer in exercising the powers of the management board.

The supervisory board shall assess all motions brought before the decision-making body of members or founders, and present its opinion thereof at the meeting of the decision-making body. If the company has a supervisory board, the supreme body of the company may adopt a decision concerning the financial report in possession of the written report of the supervisory board.

If, in the judgment of the supervisory board, the activity of the management is contrary to the law, to the instrument of a constitution or to the resolutions of the business association's supreme body, or otherwise infringes upon the interests of the business association, the supervisory board shall have the right to convene the meeting of the business association's supreme body to discuss that issue and to take the necessary decisions.

It is also possible under the instrument of the constitution to establish a peremptory supervisory body. In this case, the supervisory board is given responsibility under the instrument of the constitution for the taking or approval of decisions that otherwise fall within the competence of the supreme body or

management.

Where the articles of association of a public limited company so provide, it shall be controlled by the board of directors under the one-tier system instead of the management board and the supervisory board. The board of directors shall discharge the duties of the management board and the supervisory board conferred upon them by law.

The majority of the board of directors shall be made up of independent persons. A board member shall be considered independent if apart from his seat on the board of directors and apart from any transaction conducted within the company's usual activities, aiming to satisfy the board member's personal needs he is not holding any other office.

Furthermore, the company's supreme body can provide for the setting up of other organs in addition to the bodies and officers defined in the *Civil Code*.

There are no committees that must be established prescribed by the law, except, the audit committee. Only public limited companies are required to set up audit committees, which shall provide assistance to the supervisory board or the board of directors in supervising the financial report regime in selecting an auditor, and in working with the auditor.

The general meeting (shareholders' assembly) shall elect the audit committee from among the independent members of the supervisory board or the board of directors. At least one member of the audit committee shall have competence in accounting or auditing. The audit committee is comprised of at least three members.

Furthermore, the BSE has published corporate governance recommendations available on its website, which contains proposals and recommendations for the operation of corporate governance.

7.2. Any other ESG considerations

One of the main objectives of BSE is to support ESG investments and, at the same time, to enhance sustainability.

Providing ESG data to investors improves the company's transparency. Improved transparency lowers portfolio risks, resulting in better valuation for the enterprise, and in the long run, better stock performance in the market. Higher valuation due to ESG factors not only impacts equities but also other asset classes, especially corporate bonds.

Large companies which are public-interest entities where on the balance sheet date in the previous two consecutive financial years either two of the following three indices exceed the limit indicated below:

a) the balance sheet total exceeds HUF 6 billion,

b) the annual net turnover exceeds HUF 12 billion,

c) the average number of employees in the financial year exceeds 250 persons;

and the average number of employees in the given financial year exceeds 500 persons;

shall publish a non-financial (ESG) statement containing information to the extent necessary for an understanding of the company's development, performance, position, and impact of its activity, relating to, as a minimum, environmental, social, and employee matters, respect for human rights, anti-corruption and bribery matters.

The annual report also shall contain environmental protection-related information. To start with, reporting companies should determine the internal roles and responsibilities within the company that are relevant to ESG assessment and reporting. Like many other tasks, it is recommended that ESG reporting starts from the bottom up. Different departments such as finance, investor relations, communications, core business, risk, environmental, HR, purchasing, and legal need to be involved to ensure their input is integrated into the report.

Gathering reliable and complete ESG data is imperative. The quality of available data significantly affects decision-making capabilities and performance. Data gathering is a demanding task, which should be addressed by the reporting and preparation timeline accordingly.

The ESG report can be included in the board of directors' annual report, elsewhere in the company's annual report, or in an integrated report, but it can also be presented in a separate, stand-alone report or even through other channels. The different types of reporting represent different advantages, each company should consider which type will fit them best and the needs of their investors. Regardless of the reporting channel chosen, the format of the report must satisfy all relevant legal requirements and be easily available via the company's website.

8. Ongoing Reporting Obligations (Life as a Public Company)

The issuers of a series of shares admitted to trading on the Exchange must comply with the disclosure obligations provided for by law and the Exchange Rules at the same time. Following the listing of the *Transparency Directive* in Hungary, the listing requirements have been aligned as far as possible with the European standards and impose only minimal additional obligations on listed companies.

According to the stock exchange rules, a listed company is obliged to provide information on regular, extraordinary, and other, corporate governance and certain corporate events.

The detailed rules for the information to be provided on a regular and extraordinary basis under *Act CXX of 2001 on the Capital Market* (Act on the Capital Market) are laid down in *PM Decree 24/2008 on the detailed rules of the information obligation in relation to publicly traded securities*.

8.1. Annual and interim financials

Financial reports

Listed issuers subject to the Act on the Capital Market are required to inform market participants about the development of their management. In this context, they are obliged to prepare the following reports in accordance with the Act on the Capital Market and the relevant provisions of *PM Decree 24/2008 (VIII.15.)*:

- Annual report (audited): within four months after the end of the financial year;
- Half-yearly report (unaudited): within three months after the end of the first half-year.

Other regular reports

The Act on the Capital Market also provides for an additional type of periodic information to be provided to issuers covered by the Act:

- Publication of the number of voting rights attached to their shares and the amount of share capital on the last day of each calendar month.

Responsible corporate governance disclosure requirements

Listed issuers must also publish a Corporate Governance Report at the same time as their annual report. The objective of corporate governance is to enhance the transparency of the company's management and the efficiency of its operations, taking into account the interests of its owners (but also the legitimate interests of persons and entities related to the company), while ensuring compliance with the letter and spirit of the law. The *Corporate Governance Recommendations* promulgated by the Stock Exchange address a number of issues that go beyond the scope of Hungarian law. Compliance with the procedures and recommendations contained in the *Corporate Governance Recommendations* is not mandatory, but all issuers of shares on the Exchange are required to provide information on their compliance with the Recommendations ("comply or explain").

Corporate events calendar

Premium Class issuers are required to publish their calendar of corporate events by the first day of each financial year.

8.2. Ad hoc disclosures

Extraordinary disclosure, disclosure of inside information (MAR)

The issuer must inform market participants about any information or event that may directly or indirectly affect the value or yield of the securities it has listed on the Exchange and may be important for investors' decisions (so-called price-sensitive information). An illustrative list of the information covered by the exceptional information obligation is set out in *PM Decree 24/2008 (VIII.15.)*.

The rules on the disclosure of inside information are set out in *Regulation (EU) No 596/2016*.

Other disclosure

Information that may be important to investors but is not price-sensitive (e.g., company's articles of association, change of investor contact person, etc.)

Disclosure of certain company events

The *SRDII Directive* requires issuers to disclose information relating to specific corporate events (notice of general meeting, proposal, resolution, etc.). The publication is facilitated by the CAPS system available on the site of KELER.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

Nasdaq Riga is the only stock exchange in Latvia. It is supervised by the Bank of Latvia and belongs to the Nasdaq Baltic Exchange group. It is part of a unique structure, consolidating the common market platform and capital market infrastructure for the three Baltic States. Nasdaq Riga uses a uniform trading platform and one depository with Vilnius and Tallinn stock exchanges, forming the uniform Baltic stock market. The Baltic Exchange provides a trading platform for shares of more than 70 companies from Estonia, Latvia, and Lithuania, and maintains bond listings of more than 60 companies as well as treasury notes of the governments of Latvia and Lithuania. Nasdaq Baltic offers issuers and investors a common marketplace for trading and common information distribution.

Over the past year, Baltic debt markets have maintained progressive activity. Latvian bond issuers have been particularly active. Both Latvia's financial institutions and financial technology companies, such as BluOr Bank and Eleving Group, as well as commercial companies, such as CleanR Grupa and Coffee Address Holding, have successfully placed their bonds either on the Baltic Bond List or the Baltic First North Market. Similarly, issuers in Estonia and Lithuania have also been active: for instance, Estonia's financial institution Bigbank has listed its bonds on Nasdaq Tallinn, while Lithuania's state-owned holding company EPSO-G has made sustainability-linked bond listing on Nasdaq Vilnius.

There have also been new IPOs in the equity capital market. In 2022, Indexo, a Latvian pension management company, was listed on the Nasdaq Baltic Main List. This listing follows the successful IPOs of Hepsor, Enefit Green, and DelfinGroup initiated in 2021.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

Nasdaq Baltic stock exchanges have structured listings primarily on the Main List, Secondary List, and Bond List. The Main List and the Second List of the Nasdaq Baltic Exchanges are compliant with European Union regulations, and the listing requirements are guided by EU standards. The regulatory requirements for these two lists are more complex than for the First North alternative market.

Baltic company bonds are listed on a joint Baltic Bond List. They include bonds of major Latvian commercial entities and Latvian government treasury bills.

The Baltic Main List offers shares of solid business entities from Latvia, Lithuania, and Estonia. The Main List companies shall have a sound financial position, market capitalization of at least EUR 4 million, sufficient free float, reporting according to IFRS, and a history of at least three years of operations. These special requirements for inclusion do not apply to Secondary List companies.

In addition to the above, Nasdaq Riga has also established special requirements for the listing of shares on the SPAC List (shares of SPAC (Special Purpose Acquisition Company)) and the listing of investment certificates on the Investment Fund List.

2.2. Non-regulated market

In addition to both regulated lists of shares, the Nasdaq Baltic stock exchange hosts a non-regulated, alternative market, Nasdaq First North. This is a multilateral trading facility (MTF), or "alternative market," operated by the different exchanges within Nasdaq. This section of the share market does not have the legal status of an EU-regulated market. Companies on First North are subject to the rules of Nasdaq Baltic/First North rather than the legal requirements for admission to trading on a regulated market.

3. Key Listing Requirements

The listing requirements for the admission of equity and debt securities vary quite considerably depending on the market. For instance, First North is tailored specifically to permit small and medium-sized companies to access public markets, with lower thresholds for admission and less stringent continuous disclosure requirements. Also, as noted above, special requirements for the listing of shares on the SPAC List and listing of investment certificates on the Investment Fund List apply.

Pursuant to the *Rules of Nasdaq Riga*, an issuer that wants to have its securities listed on Nasdaq Riga has to be registered and its activities should be in compliance with the laws and other legal acts of its country of registration, its Articles of Association, and applicable *Rules of Nasdaq Riga*.

Nasdaq Riga has the right not to admit to trading the securities of an issuer that is subject to liquidation, insolvency, or bankruptcy proceedings or has initiated suspension of its operation, nor when there are reasonable doubts about the issuer's ability to continue its commercial activity or where the issuer has had permanent solvency problems before submitting the listing application. In addition, the issuer's economic, legal, or other situation or activity may not jeopardize the interests and fair and equal treatment of investors.

Only freely transferable dematerialized securities may be listed on Nasdaq Riga and the transfer right of such securities may not be restricted by the Articles of Association of the issuer.

Lastly, the securities applied for listing should be book-entered with the central securities depository Nasdaq CSD SE or another foreign central depository with whom Nasdaq Riga and/or the Nasdaq CSD SE have entered into an agreement on cooperation in the provision of payments

3.1. ECM

In relation to ECM, a distinction shall be made between the Main List, the Secondary List, the First North Market, and the SPAC List.

(a) Main List

Issuers that apply for listing of their shares on the Main List have to be active in the main field of their economic activity for at least three years and at least their last annual report has to be prepared in compliance with the IFRS.

Shares may be listed on the Main List if the issuer's anticipated market capitalization (or, if it cannot be assessed, the equity of the issuer) is at least EUR 4 million. However, Nasdaq Riga has a right to set exceptions to this requirement if sufficient interest from investors about the trading of the relevant shares is expected.

Pursuant to the *Rules of Nasdaq Riga* all shares of the same category should be listed and are subject to a 25% free float requirement – or, if the number of shares in free float is smaller than 25%, when the capitalization of the shares on free float exceeds 10 million.

(**b**) Secondary List

The requirements for listing shares on the Secondary List are the same as for the Main List, except for the requirement to have a market capitalization and free float of shares.

(c) First North

The issuer should comply with the general listing requirements discussed above and it is not subject to the requirements of minimum period of operation history, market capitalization, and free float of shares. In addition, there is no requirement that the issuer's financial statements be prepared in compliance with the IFRS. However, the issuer is obliged to engage an adviser certified by Nasdaq Riga.

(d) SPAC List

Shares may be listed on the SPAC List only if the issuer of the SPAC shares has been established for the sole purpose of, in a specified time period, publicly raising capital to merge with one or more companies, which carry out economic activity and whose shares are not listed on another regulated market or another type of trading system. SPAC shall not conduct any other economic activity.

No quantitative requirements or restrictions are applicable to the SPAC which apply for listing on the SPAC List and the shares issued by them. However, at least 90% of the gross proceeds from the sale of the SPAC shares must be deposited in a credit institution, which is licensed in European Economic Area and is independent from the issuer. The remaining amount, which shall not exceed 10% of the gross proceeds from the sale of the SPAC shares, can be used for the economic activity of the SPAC.

SPAC prospectus or comparable document (if in accordance with the provisions of regulatory provisions, SPAC is not obliged to prepare a prospectus) shall include the information specified in the public statement of the European Securities and Markets Authority, dated July 15, 2021, *SPACs: prospectus disclosure and investor protection considerations* or any subsequent additions or amendments of this document.

3.2. DCM

In relation to DCM, a distinction shall be made between the Bond List and First North Market.

(a) Bond List

Issuers that apply for listing of their debt securities on the Bond List have to be active in the main field of their economic activity for at least two years and at least their last annual report has to be prepared in compliance with the IFRS.

The total nominal value of the debt securities applied for the listing should be at least EUR 200,000.

(b) First North

Issuers should comply with the general listing requirements discussed above. They are not subject to the requirement of a minimum period of operation history, and there is no requirement that their financial statements be prepared in compliance with the IFRS. In addition, there is no requirement that the debt securities applied for the listing have a certain value. However, the issuers are obliged to engage an adviser certified by Nasdaq Riga.

3.3. Investment Fund List

In addition to ECM and DCM, investment certificates may be listed on the Investment Fund List upon condition that an investment fund or an alternative investment fund, that issues investment certificates, conforms to the provisions of the *Investment Management Companies Law* or *Alternative Investment Fund and their Managers Law*, is registered with the Bank of Latvia or in a country of the European Economic Area and has the right to distribute investment certificates in Latvia.

The purpose of the Investment Fund List is to inform the investors about listed investment funds and the value of their shares, the sell and buy price of the investment certificates, and the trading results.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

When the company is seeking admission to the Main List or the Secondary List, the key disclosure document is a prospectus. Nasdaq Riga Alternative Market First North Rules are applicable to companies seeking admission to First North (assuming that they do not conduct an "offer to the public")

and in which case the key disclosure document is a "company description."

The prospectus regime in Latvia is governed by the Prospectus Regulation and the delegated legislation which includes the *Commission Delegated Regulation (EU) 2019/980* (PR Delegated Regulation) relevant for the format, content, scrutiny, and approval of the prospectus and the *Commission Delegated Regulation (EU) 2019/979* (Prospectus RTS Regulation) relevant for the technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal. In addition, the PR Delegated Regulation imposes specific minimum information requirements for a prospectus as set out in the Annexes of the PR Delegated Regulation. The relevant Annexes that will apply in each particular case are prescribed by Articles 2 to 23 of the PR Delegated Regulation and will depend on, among others, the type of securities being issued, the type of issue (in certain cases), the nature of the issuer, whether the issuer has a complex financial history or has made a significant financial commitment.

The Prospectus Regulation requires a prospectus to be written in an easily analyzable, concise, and comprehensible form and to contain the necessary information which is material to an investor for making an informed assessment of the financial position, etc. of the issuer, the rights attaching to the securities being offered and the reasons for the issue and impact on the issuer. It may be published in a single document (which is the typical Latvian practice) or in three separate documents comprising a registration document (containing information relating to the issuer), a securities note (containing information concerning the securities being offered), and a prospectus summary.

The key information that the Prospectus Regulation requires to be included in a prospectus includes:

- risk factors informing potential investors of the material risks to the issuer, its industry, and the securities being offered;
- the last three years (two years for non-equity securities) audited financial information prepared in accordance with IFRS;
- details of any significant changes in the financial or trading position of the company since the date of the latest published audited or interim financial information included in the prospectus;
- in relation to equity securities, a working capital statement;
- an operating and financial review (OFR) describing the company's financial condition, changes in financial condition, and results of operations for the periods covered by the historical financial information included in the prospectus;
- summaries of material contracts entered into outside of the ordinary course of business by the company's group;
- details of any significant shareholders of the issuer, whose interest is notifiable under the issuer's national laws;
- in relation to equity securities, details of any related party transactions that the company has entered into during the period covered by the historical financial information and up to the date of the prospectus;
- details of any legal proceedings that the company has been party to in the last year;
- prescribed information on the company's directors and senior management, including remuneration, benefits, and interests in the shares of the company (including share options) and also with respect to the company's corporate governance; and
- responsibility statements from the company, the directors, and any proposed directors, confirming that they accept responsibility for the information contained in the prospectus and that, to the best of their knowledge (having taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and contains no omission likely to affect its import.

The prospective issuers can omit information from a prospectus in limited circumstances where the Bank of Latvia may authorize that disclosure of such information would be contrary to the public interest, seriously detrimental to the issuer (provided that the omission would not be likely to be misleading the public) or the information is of minor importance in the specific situation and would not influence the assessment of the financial position and prospects of the issuer.

A supplementary prospectus will need to be published if any significant new factor, material mistake, or inaccuracy relating to the information included in the original prospectus arises during the period after publication of the original prospectus but before the later of the securities being admitted to trading and the closing of the offer to the public. Significantly, the issuance of a supplementary prospectus triggers withdrawal rights for any investor who had previously agreed to purchase shares in the offering. Such rights are exercisable before the end of the second working day after the day on which the supplementary prospectus was published.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

When the company is seeking admission to the Bond List, the key disclosure document is a prospectus. Nasdaq Riga Alter-

native Market First North Rules are applicable to companies seeking admission to First North (assuming that they do not conduct an "offer to the public") and in which case the key disclosure document is a "company description."

The regulatory regime in relation to DCM in Latvia is governed by the Prospectus Regulation and the PR Delegated Regulation, as described in Section 4.1.

4.3 Local market practice considerations

For local market practice considerations please refer to Section 4.1.

4.4. Language of the prospectus for local and international offerings

Where an offer of securities to the public is made or admission to trading on a regulated market is sought only in Latvia, the prospectus shall be drawn up in Latvian. However, where an offer of securities to the public is made or an admission to trading on a regulated market is sought in more than one Member State including Latvia, the prospectus can be drawn up in English and the prospectus summary should be translated into Latvian and, if required, also in the official languages of the host Member States.

5. Prospectus Approval Process

5.1. Competent authority/regulator

The Bank of Latvia is the competent authority in Latvia for reviewing and approving prospectuses and the company will need to follow the formal admission requirements set out in the Rules of Nasdaq Riga.

5.2. Timeline, review, and approval process

According to the Prospectus Regulation Bank of Latvia shall take a decision on approval of the prospectus within 10 working days of the submission of the draft prospectus. The time limit may be extended to 20 working days where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not previously offered securities to the public.

The number of drafts that can be submitted to the Bank of Latvia is not limited. However, local practice is to provide the Bank of Latvia with a draft that is very close to the final version.

6. Listing Process

6.1. Timeline, process with the stock exchange

The issuer that wants to have its securities listed on any of the lists of Nasdaq Riga shall submit to Nasdaq Riga a listing application and all other documents specified herein.

(a) Main List and Secondary List (ECM)

If the issuer applies its shares for listing on the Main List or the Secondary List, it must append the following documents to the listing application:

1) a copy of the issuer's registration certificate or a similar document certifying the legal status of the issuer (fact of registration);

2) a copy of the Articles of Association of the issuer;

3) a report of the Management Board of the issuer on business plans for the current and at least the next reporting period;

4) a copy of the decision of the issuer's shareholders' meeting on amendments to the Articles of Association and the increase of its share capital;

5) a resolution on submission of the listing application taken by the authorized management body of the issuer;

6) a prospectus registered with the Bank of Latvia or an offering document;

7) copies of audited annual reports for the last three years;

8) if an agreement with a member of Nasdaq Riga on market making for the securities of the issuer has been concluded, the information about the conclusion of the agreement and a description of the main provisions of the agreement;

9) in the event the issuer has a parent company, confirmation of the parent company and the issuer that there do not exist any arrangements that the issuer would have to transfer the entire profit or a part thereof to its parent company and that none such would be made during the listing period on Nasdaq Riga; and

10) in the event the Issuer has a parent company, the parent company's written commitment to conform to the Rules of Nasdaq Riga.

Nasdaq Riga shall take a decision on listing within 10 days following receipt of all required documents and information.

(b) Bond List (DCM)

If the issuer applies its debt securities for listing on the Bond List, it must append the following documents to the listing application:

1) a copy of the issuer's registration certificate or a similar document that certifies the legal status of the issuer (fact of registration);

2) a copy of the Articles of Association of the issuer;

3) a copy of the resolution on the issuance of debt securities and submission of the listing application taken by the authorized management body of the issuer;

4) a prospectus registered with the Bank of Latvia or an offering document;

5) copies of audited annual reports for the last two years; and

6) if an agreement with a member of Nasdaq Riga on market

making for the securities of the issuer has been concluded, the information about the conclusion of the agreement and a description of the main provisions of the agreement.

Nasdaq Riga takes a decision on listing within 10 days following receipt of all required documents and information.

(c) First North (ECM and DCM)

If the issuer applies its shares or debt securities for listing on First North, it must append the following documents to the listing application:

1) a certified copy of the issuer's registration certificate or a similar document that certifies the legal status of the issuer (fact of registration);

2) a copy of the Articles of Association of the issuer;

3) a resolution on submission of the listing application taken by the authorized management body of the issuer;

4) a prospectus registered with the Bank of Latvia, an offering document, or the company's description if the issuer is not required to prepare the prospectus or an offering document;

5) copies of audited annual reports for the last two years;

6) a report of the Management Board of the issuer on the business plans of the issuer for the current and at least next reporting period, unless disclosed in the prospectus or the company's description; and

7) an agreement with a certified adviser.

Considering the specific circumstances, Nasdaq Riga has the right to make exemptions and decide that the submission of certain documents is not necessary.

Nasdaq Riga takes a decision on admission of securities to trading on the First North within three months following receipt of all required documents and information.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

Companies listed on Nasdaq Riga shall follow and implement the *Corporate Governance Code*, dated 2021, which, among others, supplements the corporate governance recommendations previously introduced by the *Principles of Corporate Governance and Recommendations on their Implementation*, approved by Nasdaq Riga in 2010. These guidelines govern all-important corporate issues of listed entities, including convening and managing shareholders meetings, the composition of the supervisory council and board, remuneration policies, and internal controls of listed entities. The Corporate Governance Code provides imperative requirements for sharing information with shareholders and the promotion of effective shareholder involvement in decision-making processes.

Requirements for independent non-executive directors are determined by the *Corporate Governance Code*. It provides a recommendation that at least half of the council members shall be independent. Independent candidates for council membership shall make a declaration that they meet the independence criteria as established by the *Corporate Governance Code*. The rules determine that the council as a whole has a set of skills, experience, and knowledge, including on the sector concerned, to be able to perform their duties fully and the principles of diversity shall be observed when forming the council.

In addition, the *Corporate Governance Code* provides that it is particularly important that listed companies shall develop an internal culture and ethics code that serves as a standard of conduct for the company's management and employees. The code of ethics shall reflect the core values defined by the company, as well as the standards of ethical and professional conduct and guidelines for their achievement and implementation.

7.2. Any other ESG considerations

The *Corporate Governance Code* acknowledges that investors and other stakeholders are increasingly concerned about environmental, social responsibility, and sustainability issues, which are as important as a company's financial performance. These trends have a direct impact on corporate governance, forcing companies to re-evaluate existing processes and adapt to investors' requirements by expanding the concept of corporate governance and changing the traditional idea that the shareholder is the main stakeholder in the company.

As a result, the *Corporate Governance Code* establishes certain ESG requirements. For instance, in the strategy development process, the management board shall take into account the implementation of the current strategy, the current situation in the company, trends in the industry and on the market, business model, opportunities and risks, stakeholder interests, environmental, social and governance aspects, etc. Also, a code of ethics shall help to create a responsible, safe, and comfortable work environment, which in turn promotes employee confidence and ethical behavior, thus also ensuring the implementation of the company's long-term objectives. In addition, it is also established that the information to be published on the company website shall, inter alia, include the company's non-financial reports (on the company's environmental impact, social and employee aspects, respect for human rights and anti-corruption measures, including the sustainability report) for at least three last financial years.

Also, Nasdaq Baltics has emphasized environmental criteria in commencing the listing of green bonds of several issuers. The Nasdaq Baltic Bond List currently includes 11 sustainable bond offerings. In 2015 Latvia's Latvenergo was the first in Nasdaq Baltics and the first state-owned energy company in Eastern Europe to offer green bonds. Since then, a number of

companies (including, Latvian development finance institution ALTUM and Latvian electricity transmission operator Augstsprieguma tikls) have commenced a series of issues of green bonds. Rules of bond issues contain a set of standards for a company's operations that environmentally and socially conscious investors have used to screen potential investments.

8. Ongoing Reporting Obligations (Life as a Public Company)

Listed companies are required to comply with various ongoing reporting obligations, which vary based on whether the securities are included in the regulated market or alternative market Firth North.

In addition to the reporting requirements provided in the Financial Instruments Market Law, there are also reporting requirements provided in the Rules of Nasdaq.

Moreover, both listed and unlisted companies will need to ensure that they meet the ongoing obligations under *Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse* (MAR), as a breach of MAR by an individual or legal person is a civil offense punishable by a fine and administrative sanction.

8.1. Annual and interim financials

The companies whose securities are listed on a regulated market of Nasdaq Riga must publish their audited annual reports prepared in accordance with the IFRS within four months of its financial year end and unaudited interim reports prepared in accordance with the IFRS within two months of the interim financial period.

The companies whose securities are listed on the alternative market First North must publish their audited annual reports not later than on the day on which, in accordance with the regulatory acts of the registration country of the issuer, the annual report is to be audited and/or approved, and unaudited semi-annual reports within three months of the end of the reporting period.

8.2. Ad hoc disclosures

Companies with securities listed on the regulated market of Nasdaq Riga or on the First North alternative market are also subject to various ad hoc reporting requirements, including the obligation to publish the inside information in accordance with the requirements of MAR.

Companies with securities listed on the Nasdaq Riga regulated market are required to disclose, inter alia, information about: changes in the issuer's management board, supervisory board or auditors; changes of the issuer's legal address or actual location of the office; all proposed changes in the rights or liabilities of holders of securities; the court or arbitration proceedings which have been initiated by the issuer or against the issuer (provided that such proceedings are affecting or may affect the price of the issuer's listed securities); initiation of legal protection, insolvency or liquidation of the issuer, its parent company or its material subsidiary; the issuer's intention to seek for secondary listing on another regulated market; all circumstances and events that have materially affected or which could materially affect the issuer's business or financial standing; convening of shareholders' or bondholders meeting; payment of dividends; increase or reduction of share capital and acquisition of its own shares; issuance of debt securities; significant changes in the issuer's shareholders, and other significant events.

Disclosure requirements for the companies whose securities are listed on alternative market First North are less stringent and, inter alia, includes disclosure of information about: changes in the issuer's management board, supervisory board, or auditors; convening of shareholders' or bondholders meeting; increase or reduction of share capital; the issuer's intention to seek for admission to trading of its securities on another multilateral trading facility or a regulated market; and other significant events.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

Lithuanian ECM and DCM markets over the few last years were not very active and there are only a few transactions to mention.

ECM

Initial public offering (IPO) of IGNITIS GROUP, IPO value - EUR 22.1 million (2020).

DCM

- Debut EUR 75 million sustainability-linked bond issue by the energy transmission and exchange group EPSO-G (2022).
- Debut EUR 35 million green bond offering by a collective investment undertaking UAB „Atsinaujinancios energetikos investicijos" under its EUR 100 million program (2022).
- EUR 240 million bonds issued by UAB MAXIMA GRUPE under its EMTN program (2022).
- Debut EUR 300 million Eurobond offering by Akropolis Group (2021).
- EUR 300 million green bonds issued by IGNITIS GROUP under its updated EUR 1.5 billion Euro Medium Term Note Program (2020).

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

Currently, there is only one stock exchange operator in Lithuania – AB NASDAQ Vilnius. It administers a regulated market and a non-regulated market.

The regulated market consists of (i) Main List and Secondary List for equity securities, (ii) the SPAC list (referred to as Special Purpose Acquisition Company. SPAC is an issuer with no commercial/business operations what is formed to raise capital through public offering with a purpose of acquiring one or more existing companies within a certain time period), (iii) the Bond List for debt securities, and (iv) the Fund List for securities issued by collective investment undertakings.

2.2. Non-regulated market

The non-regulated market consists of the alternative market First North, which qualifies as a multilateral trading facility.

3. Key Listing Requirements

3.1. ECM

In order to be listed on the NASDAQ Vilnius stock exchange, a company must meet certain general requirements: i) the company must be committed to complying with applicable sanctions laws and regulations, and its economic status must not prejudice the interests of the investors; ii) the shares to be listed must be free of any encumbrances, entitling their holders to equal rights and be fully paid up. Further requirements depend on the list and market that companies seek for listing. These requirements are listed below.

Issuer's history of operations – three years for the Main List, two years for the Secondary List, not applicable for the First North market.

Minimum capitalization – EUR 4 million for the Main List, EUR 1 million for the Secondary List, not applicable for the First North market.

Free float – at least 25% for the Main List (or the value of free float must amount to EUR 10 million), not applicable for the Secondary List, not applicable for the First North market.

Prospectus – required for listing on the Main and Secondary lists, not applicable for the First North market.

Reporting – An annual report and semi-annual or quarterly financial reports for listing on the Main and Secondary lists, annual and semi-annual financial reports for the First North market. Listing on First North also requires the relevant issuer to enter into an agreement with a certified advisor of First North which shall advise and ensure that the issuer complies with reporting and other listing requirements.

Accounting – Financial reports to be prepared according to the International Financial Reporting Standards for listing on the Main and Secondary lists, financial accounting standards of choice for the First North market.

Language – Information disclosure in Lithuanian and English language for listing on the Main and Secondary lists, information disclosure in Lithuanian or English language for the First North market.

3.2. SPAC

The application for admission to the SPAC List must cover all the shares of the same category already issued.

The Nasdaq Vilnius may provide that the condition to cover all the shares of the same class already issued shall not apply to applications for admission where the shares of that class for which admission is not sought belong to issues serving to maintain control of the issuer or are not negotiable for a certain time under agreements, if the public is informed of such situations and if there is no danger of such situations prejudicing the interests of the holders of the shares for which admission to the SPAC List is sought only.

The rules regarding historical financial information and business operations shall not be applicable to a SPAC.

SPAC must disclose publicly information that ensures that the management of SPAC has an impeccable reputation and sufficient knowledge and experience to perform their duties properly.

At least 90% of the gross proceeds from the public offering and any other sale of the shares by the Issuer must be deposited in a bank account maintained by an EEA-licensed credit institution independent from the Issuer. The deposit amount may be invested in short-term securities of the Government of the Republic of Lithuania and other safe money market instruments. The remaining amount, which does not exceed 10% may be used for the economic and commercial activities of the issuer.

Unless disclosed in the prospectus, the issuer in accordance with the Law on Securities of the Republic of Lithuania shall disclose at least information set out in the *ESMA Public Statement on SPACs: prospectus disclosure and investor protection considerations* as of July 15, 2021.

3.3. DCM

Issuer's history of operations – two years for the Bonds List, not applicable for the First North market.

The minimum denomination of bond issue – EUR 200,000 for the Bonds List, not applicable for the First North market.

Prospectus – required for listing on the Bonds List, not applicable for the First North market.

Reporting – Annual report and semi-annual or quarterly financial reports for listing on the Bonds List, Annual and semi-annual financial reports for the First North market.

Accounting – Financial reports to be prepared according to International Financial Reporting Standards for listing on the Bonds List, financial accounting standards of choice for the First North market.

Language – Information disclosure in Lithuanian and English for listing on the Bonds List, information disclosure in Lithuanian or English for the First North market.

GENERAL NOTE: The stock exchange may waive certain of the requirements, e.g., that of having certain operating history. The decision to waive requirements is based on considerations of the issuer's financial status, its position in the market, the field of activity, reputation, prospects, and other factors.

4. Prospectus Disclosure

4.1. Regulatory regimes (Prospectus Regulation or similar) – equity and debt

Disclosure related to the issue of equity and debt securities as well as related to the listing of equity and debt is based on *Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market as amended* (the "Prospectus Regulation").

4.2. Local market practice considerations

In accordance with limits permitted by the Prospectus Regulation, Lithuania does not require a prospectus to be prepared for the public offering of securities if the total consideration in the EU is less than EUR 8 million, calculated over a period of 12 months.

The public offering of securities in Lithuania when the total consideration calculated over a period of 12 months is between EUR 1 million and EUR 8 million is subject to the preparation and publication of the informational document. This document shall describe the issuer and securities to be offered. Requirements for the content of the such informational document are established by the securities market regulator, i.e., the Bank of Lithuania. Notably, there is no requirement to have this document approved by any authority.

A listing prospectus is required for listing on a Lithuanian-regulated market. However, should listing be sought on the First North market (i.e., the non-regulated market) informational document prepared in accordance with the rules of the First North would suffice. These rules to a large extent are similar to the requirements established by the Bank of Lithuania for the offering of securities when the total consideration calculated over a period of 12 months is between EUR 1 million and EUR 8 million. In practice, issuers of such securities prepare only one informational document containing the information as required by the regulator and by the First North and use it both for the offering and for the subsequent listing on the First North market.

4.3. Language of the prospectus for local and international offerings

Where an offer of securities to the public is made or admission to trading on the regulated market is sought only in Lithuania, the prospectus shall be drawn up in the Lithuanian language. However, it is also permitted to request the regulator to accept the prospectus prepared in the English language.

As far as international offerings are concerned, the prospectus may be prepared in Lithuanian or English at the choice of the issuer.

5. Prospectus Approval Process

5.1. Competent authority/regulator

As discussed above, the competent authority for the review and approval of prospectuses prepared in accordance with the Prospectus Regulation is the Bank of Lithuania.

5.2. Timeline, review, and approval process

The process and timeline for the approval of the prospectus by the Bank of Lithuania are based on the Prospectus Regulation. These requirements do not specify the maximum number of drafts allowed to be submitted. As such, the regulator may request to provide amended drafts as long as it finds that the previous drafts do not meet the standards of completeness,

comprehensibility, and consistency necessary for its approval and/or that changes or supplementary information are needed.

6. Listing Process

6.1. Timeline, process with the stock exchange

The process with the stock exchange is fairly simple. Apart from the relevant corporate resolutions it requires a formal application of the issuer to AB NASDAQ Vilnius. Usually, assessment by the stock exchange takes 2-4 weeks (although the official term is three months), upon which the listing agreement is signed and listing commences.

When the listing is being sought by a company that is undergoing an IPO, the process with the stock exchange usually is conducted as part of the preparations for an IPO in order to ensure that the listing occurs immediately after the completion of the IPO. In such cases, the stock exchange makes its assessment prior to the completion of the transactions and facilitates the listing to commence as required by the issuer and IPO team.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

Companies listed on the regulated market of AB NASDAQ Vilnius are subject to the *Corporate Governance Code* (Code) of the NASDAQ Vilnius stock exchange. This Code lays down the principles and standards of corporate governance. It is not strictly mandatory, but the companies that do not comply with the provisions of the Code must describe and explain such non-compliance within the Corporate Governance Report that is part of the annual reporting.

The Code is drafted on a basis of analogous codes, standards, and principles of other states and international organizations, the key ideas and directions of which are reflected in the *Principles of Corporate Governance* of the Organization for Economic Cooperation and Development.

The model of corporate governance required by the Code is in accordance with Lithuanian legal requirements for the corporate governance structure. Accordingly, companies must have a manager (CEO) of the company and either a one-tier management board or a two-tier board (management and supervisory boards). Certain matters are decided by the general meeting of shareholders. Where a supervisory board is not formed, the management board should also perform the supervisory functions.

Until recently one of the principles of the Code was a requirement that companies have an independent member on the supervisory or management board. Recently a similar requirement was introduced into the *Lithuanian Law on Companies*. According to the law, 1/3 of the members of the supervisory board (or 1/3 of the management board that performs supervisory functions) of listed companies must be independent. The criteria for independence are also provided in the law.

As far as committees are concerned, under the Code, companies listed on the regulated market should form at least nomination, remuneration, and audit committees.

Committees should exercise independent judgment and integrity when performing their functions and provide the collegial body with recommendations concerning the decisions of the collegial body. Committees should normally be composed of at least three members, although subject to the requirements of the legal acts, committees may be comprised only of two members as well. Members of each committee should be selected on the basis of their competencies by giving priority to independent members of the collegial body. The chair of the management board should not serve as the chair of committees.

7.2. Any other ESG considerations

There are no formal requirements related to ESG except for the requirement that large listed companies with an average number of employees exceeding 500 prepare a Social Responsibility Report as part of the annual reporting. This report shall cover matters related to the protection of the environment, social and staff issues, protection of human rights, and prevention of corruption and bribery.

There are no new regulations and requirements related to ESG for the year 2023, however on December 14, 2022 a directive regarding corporate sustainability reporting came into effect, whose rules shall apply for financial years starting on or after January 1, 2024 (applicable to issuers exceeding on their balance sheet dates the average number of 500 employees during the financial year).

8. Ongoing Reporting Obligations (Life as a Public Company)

8.1. Annual and interim financials

As discussed above, issuers listed on the regulated market must prepare and publish annual and semi-annual (or quarterly financial) reports prepared according to the *International Financial Reporting Standards* (this requirement does not apply to certain issuers, e.g., issuers of debt securities with denominations of not less than EUR 100,000).

8.2. Ad hoc disclosures

In addition to the above, issuers are obliged to make public disclosures in accordance with requirements of *Regulation (EU) No 596/2014 on market abuse* which, amongst other items, regulates public disclosure of inside information and disclosure of manager's transactions.

Besides that, the issuers must disclose information about any person who has acquired 5%, 10%, 15%, 20%, 25%, 30%, 50%, 75%, or 95% of the voting rights in that issuer. This obligation also applies where the specified limits are exceeded in descending or ascending order. A similar obligation also applies with respect to persons holding other types of financial instruments (e.g., options, swaps, etc.) that under the terms of those instruments give rise to the acquisition of voting rights.

The issuers also must disclose acquisitions and transfers of their own shares (votes), changes to the rights attached to the financial instruments issued by the issuer, and changes to its constitutive documents (e.g., Articles of Association). Special rules and disclosure regimes also apply in relation to takeover, sell-out, and squeeze-out events. These requirements are generally in line with rules established by *Directive 2004/25/EC on takeover bids*.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

Moldova's capital market started its existence in 1994, following a mass privatization process. Since then, the Moldovan capital market has been subject to several reforms, but until nowadays is characterized as underdeveloped. Among the factors determining the low level of the Moldovan capital market development are named the absence of liquid financial instruments, lack of institutional investors, and low degree of confidence in investing in financial instruments.

Moldovan capital market is mostly limited to the equity securities market transacted on primary and secondary markets, with limited experience in municipal bonds issuance. Transactions with equity securities continue to be mainly performed on the OTC segment of the market, with a size in 2022 of MDL 190 million and 2,642 transactions.

No corporate bonds market exists even though the necessary legal framework is in place.

In 2022, the National Commission of Financial Markets (NCFM) registered one issuance of shares on the primary market of about MDL 10 million, and 65 issuances of shares on the secondary market amounting to MDL 2,947 million. The most significant issuance of shares in 2022 on the secondary market was registered by the state-owned company Energocom S.A. for a total value of MDL 2,426 million following the decisions of the Commission for Exceptional Situation, as a measure to secure the national energy sector.

Capital market participants that are duly licensed and operate in Moldova include one market operator, which manages and operates the regulated market and MTF, seven investment banking companies, seven non-banking investment companies, eight registrar companies, and five appraisals.

The Moldovan government continues its efforts to improve the capital market legislation. The *Capital Market Law* was recently amended so that starting with June 2023 foreign securities will be accepted for trading on the Moldovan regulated market if certain conditions are met, namely that the issuers were incorporated at least three years prior, registered a profit for at least two years, and there aren't any trading prohibitions imposed by the operator of a foreign or Moldovan regulated market.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

Under the *Capital Market Law*, a regulated market represents a multilateral system, which is managed and used by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling orders in financial instruments that are admitted for trade in a way that results in contracts. The regulated market operates under its own rules and shall be authorized by the NCFM.

Currently, Moldova Stock Exchange (MSE) is the only operator authorized to manage and operate a regulated market in Moldova. Transactions on MSE regulated market are performed according to the MSE Rules. As of March 15, 2023, the securities of 15 issuers are admitted for trade on the MSE-regulated market, represented by eight commercial banks, three insurance companies, and two issuers from other non-financial industries intending to perform public bids of securities. The municipal bonds issued by the Chisinau municipality are also listed on MSE regulated market.

The total value of ECM transactions on the regulated market in 2022 amounted to MDL 364.93 million, the most significant transaction being the trade of 83.62 shares in ENERGBANK S.A., with a subsequent takeover bid of the minority shares.

2.2. Non-regulated market

The *Capital Market Law* also regulates the possibility to trade securities through the MTF, representing a system operated by an investment firm or market operator which brings together multiple third-party buying and selling orders in financial instruments. In Moldova, MTFs can be operated by investment firms or market operators based on their own discretionary rules and are subject to broadly the same overarching regulatory and transparency requirements as the regulated markets.

Currently, the only market operator authorized to operate through the MTF system in Moldova is the MSE. As of March 15, 2023, the securities of 20 issuers are admitted for trade on the MTF managed by the MSE. The municipal bonds issued by the mayoralties of Singera and Ceadir-Lunga are also traded on MTF.

The total value of ECM transactions conducted within the MTF in 2022 recorded a value of MDL 13 million with 81 transactions.

3. Key Listing Requirements

3.1. ECM

In order to be listed on the stock exchange the issuer of equity shares must comply with the following requirements

1) a prospectus must be drawn up and approved by the NCFM and made public;

2) a minimum market capitalization for equity shares to be eligible for listing is EUR 1 million. If the minimum market capitalization is not possible to be calculated, the issuer shall prove EUR 1 million as share capital. NCFM may exempt the issuer from these requirements if NCFM resolves that the issuers' securities are appropriate to be traded on the regulated market.

4) securities proposed for listing shall be fully paid, except for the primary issuance of shares;

5) the issuer must meet a minimum of 10% free float, except for the primary issuance of shares;

5) issuer's net assets are not lower than the issuer's share capital;

6) issuer's register of shareholders is maintained by the National Central Depository:

6) documentary evidence, including:

(i) charter and excerpt from the trade register

(ii) registration certificates for each issuance of securities

(iii) public offer prospectus as approved by the NCFM

(iv) audited financial statements for the last three years, and for the previous quarter together with the auditor's reports

(v) resolution of issuer's governing bodies approving the listing of securities on the regulated market, etc.

3.2. DCM

The key listing requirements of MSE applicable to DCM as debt financial instruments are as follows:

1) a prospectus must be drawn up and approved by the NCFM and made public;

2) the issued debt financial instruments are fully paid and may be freely traded;

3) the value of the debt financial instruments to be listed shall be at least EUR 200,000;

4) the issuer shall keep the register of bondholders with the National Central Depository.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

The prospectus regime in Moldova is mainly governed by the *Capital Market Law*, *the NCFM Regulation No. 33/1 of June 16, 2015, on Public Bids*, the *NFMC Rules No. 13/10 of 13.03.2018 on Steps, Terms, Method, and Procedure of Securities Registration*, and the *MSE Rules*.

A prospectus is to be written in an easily analyzable, concise, and comprehensible form and shall contain the necessary information to allow an investor to make an informed assessment of the issuer, the rights attaching to the securities being offered, and the reasons for the issue and impact on the issuer. It may be published in a single document or in three separate documents comprising a registration document (containing information relating to the issuer), a securities note (containing information concerning the securities being offered), and a prospectus summary.

Key information to be included in a prospectus includes:

1) risk factors informing potential investors of the material risks to the issuer, its industry, and the securities being offered. These should be specific to the issuer or shares being offered, be grouped into a limited number of categories with the most material factor listed first, and, where possible, there should be a quantitative assessment of each risk;

2) audited financial information for the previous three years;

3) details of any significant changes in the financial or trading position of the company since the date of the latest published audit or interim financial information;

4) an operating and financial review describing the company's financial condition, changes in financial condition, and results of operations for the periods covered by the historical financial information included in the prospectus;

5) summaries of material contracts entered into outside of the ordinary course of business by the company's group in the past two years (or longer if material obligations or entitlements remain outstanding);

6) details of any significant shareholders of the issuer;

7) details of any related party transactions that the company has entered into during the period covered by the historical financial information and up to the date of the prospectus;

8) details of any legal proceedings that the company has been a party to in the last year;

9) prescribed information on the company's directors and senior management, including remuneration, benefits, and interests in the shares of the company and also with respect to the company's corporate governance; and

10) responsibility statements from the company, the directors, and any proposed directors, confirming that they accept responsibility for the information contained in the prospectus and that, to the best of their knowledge (having taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and contains no omission likely to affect its import.

A supplementary prospectus will need to be published if any major new factor, material mistake, or inaccuracy relating to the information included in the original prospectus arises during the period after publication of the original prospectus but before the securities are admitted for trading and the closing of the offer to the public. The issuance of a supplementary prospectus triggers withdrawal rights for any investor who had previously agreed to purchase shares in the offering. Such rights are exercisable before the end of the second working day after the day on which the supplementary prospectus was published.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

The same requirements for the prospectus disclosure of equity securities apply in the case of the issuance of debt financial instruments.

4.3 Local market practice considerations

Marketing activities are usually undertaken by the issuer and the underwriters.

Issuers may file a preliminary prospectus without the final price and the final volume of securities offered. Investors submit bids for purchasing the securities at prices that must be within a pre-defined offer price range or maximum limit. The issuer must file and publish a supplement to the preliminary prospectus including the final offer price, the gross proceeds as well as the net proceeds of the issues.

4.4. Language of the prospectus for local and international offerings

The prospectus shall be in the Romanian language.

5. Prospectus Approval Process

5.1. Competent authority/regulator

The NCFM is the competent authority in Moldova for reviewing and approving the prospectus of public bids of securities to be issued by Moldovan issuers.

5.2. Timeline, review, and approval process

NCFM approves or refuses the approval of the prospectus within 10 business days from the date of prospectus submission together with all supporting documents. The term for examination may be extended by an additional 20 days in case of primary issuance of shares.

The approval of the prospectus can follow once the NCFM clears the prospectus of comments.

There is no limited number of prospectus draft submissions. Any additional information or documents submitted to the NCFM for the prospectus approval restarts the term for the prospectus examination by the NCFM.

6. Listing Process

6.1. Timeline, process with the stock exchange

The application for admission of securities for trade on the MSE-regulated market and supporting documents are to be examined by the MSE Department of Marketing, Listing, and Ratings. The MSE needs to issue its decision to accept or reject the listing application within 10 business days of submission for domestic companies and 20 business days for foreign companies.

If the application is accepted, the applicant will be invited to sign the listing contract within 10 business days of the application acceptance date. The applicant will also be issued a certificate confirming the listing of the securities on the MSE-regulated market.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

An issuer whose securities are admitted for trade on the regulated market is considered a public interest entity and must comply with the *Corporate Governance Code* approved by the NCFM in 2015 (Code). The Code is also compulsory for public interest entities whose securities are not admitted for trade on the regulated market if the entity is a financial institution, insurance company, leasing company, or voluntary pension fund. All other companies that are not public interest entities may follow the Code on a voluntary basis.

Public interest entities are also required to report their compliance with the Code in relation to **(i)** international corporate governance standards, **(ii)** protection of the legitimate rights and interests of shareholders, **(iii)** clarification of the roles of its governing bodies, **(iv)** functionality of the entity in a non-corrupt environment, and **(v)** promotion of the interests of managers, employees, and shareholders, as well as by other measures.

The Code prescribes specific independence requirements for the directors of public interest entities. Under the Code at least 1/3 of the board must be composed of independent directors. The number of board members is to be sufficient to ensure the organization of the board's activity, including the ability to create board committees and allow shareholders to elect the candidate for which they shareholder has voted. The Code also requires the board to create committees for the preliminary examination of the most important issues related to the entity's activity, such as a remuneration committee, a risk management committee, etc.

7.2. Any other ESG considerations

Moldova's status as a candidate country for accession to the European Union underlines the need to implement the ESG principles. Currently, no ESG reporting requirements exist in the context of ECM and DCM. Moldova is taking the first steps to incorporate the requirements and standards for ESG reporting indicators into companies' business strategies and to ensure sustainable economic development in line with the current trends of transition towards a circular economy and EU standards.

8. Ongoing Reporting Obligations (Life as a Public Company)

Public interest entities, including issuers whose securities are traded on the regulated market, are subject to special disclosure

obligations. The information that is to be disclosed by a public interest entity is expressly regulated by the *Capital Market Law* and includes:

1) annual report of the entity;

2) quarterly report of the entity;

3) interim statement of the entity's management;

4) information about events impacting the economic and financial activity of the entity; and

5) the entity's articles of incorporation.

The purpose of the disclosure obligations imposed on public interest entities is to ensure that all investors have equal, equitable, and simultaneous access to information for making an informed assessment of issuers and their securities.

In addition, participants in the capital market have the obligation to immediately inform the NCFM of any material breach of laws relating to operations, manipulation activities, market abuses, or other breaches that may affect the market's stability.

Failure to comply with disclosure obligations may result in sanctions in the form of a warning, public warning, suspension or withdrawal of qualification certificates, suspension or withdrawal of management, suspension or interdiction to perform certain activities on the capital market, suspension of license, withdrawal of license or authorization, or a fine of up to MDL 1 million (about EUR 50,000).

8.1. Annual and interim financials

Public interest entities, including entities whose securities are traded on a regulated market, must publish an annual report before April 30 of the year following the reporting year and shall take necessary measures to ensure that the reports are made available to the public for a period of minimum five years from the date of their publishing.

The annual report shall include:

1) annual financial statements, including auditor reports

2) the company's annual operating report;

3) a statement issued by the entity's responsible person for the preparation of the annual report, stating that, to the best of his knowledge, the annual financial report is prepared in line with the law, and reflects accurate and objective information about the assets, liabilities, financial position, and performance, profit and loss, cash flows of the entity; description of the entity's expected future development, policy changes, as well as the major risks and threats faced by the entity.

In addition to annual reports, a public interest entity, including an issuer whose securities are traded on the regulated market, must publish quarterly reports, not later than two months after the reporting quarter. The quarterly reports shall also be made available to the public for a minimum of five years from the date of their publishing and shall contain:

1) financial statements for the respective quarter;

2) the company's operating report for the respective quarter;

3) a statement issued by the entity's responsible person for the preparation of the quarterly report, stating that, to the best of his knowledge, the quarterly financial report is prepared in line with the law, and reflects accurate and objective information about the assets, liabilities, financial position, performance, evolution and results of the company.

Public interest entities are also required to disclose interim statements of management for the first and second quarters. The interim statements are to be published during a period starting with the 10th week from the beginning of the quarter and ending six weeks before the close of the quarter.

The interim statements shall include:

1) a general description of major events and transactions performed during the reported period and their impact on the entity's and entity group's activity

2) a general description of the financial situation and results of the entity and of the entity's group.

8.2. Ad hoc disclosures

The *Moldovan Capital Market Law* regulates specific ad-hoc disclosure obligations for shareholders and issuers as follows:

1) Notification of corporate developments that have an impact on the issuer's activity: A public interest entity is to disclose within seven business days the occurrence of any event that impacts the company's activity, such as:

- amendments to voting rights related to different categories of securities
- new issuances of securities
- payment of dividends
- conversions, fractioning, or consolidation of securities from previous issuances
- events that may influence the activity of the issuer or the price of the securities admitted to trade.

2) Notification of a significant proportion of voting rights: An individual or a legal entity who directly or indirectly reaches, exceeds, or falls under 5%, 10%, 15%, 20%, 25%, 33%, 50%, 66%, 75%, or 90% of the voting rights in a public interest entity or in a company whose shares are traded on the MTF, is to respectively notify the issuer and NCFM within four business days.

The public interest entity that is the issuer of voting shares, upon receipt of the notification specified above, shall disclose the information contained in the notification to the public promptly and no later than within three business days from the date of receipt.

3) Notification of acquisition of company's own shares: A public interest entity that acquires or sells its own voting shares, and after the transaction reaches, exceeds, or falls under 5% or 10%, is to disclose the information to the public promptly and no later than five business days.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

The Warsaw Stock Exchange (WSE) remains the biggest exchange in Central and Eastern Europe that organizes trade on one of the fastest-growing capital markets in Europe. However, due to the pandemic and post-pandemic implications as well as hostilities in the territory of Ukraine, the growth significantly slowed down. In 2021, the WSE celebrated the 30th anniversary of the Warsaw Stock Exchange

Investors are now looking more cautiously at the Polish capital market. It should be emphasized, however, that investor sentiment is volatile, and changes are currently occurring quickly and often today, so it is impossible to point to one general or universal trend. April 2022 turned out to be particularly difficult for the WSE. Despite the outflow of part of foreign capital from the WSE, however, the Polish stock exchange remains a stable, well-managed, and reliable market. A significant part of small investors is currently looking for investment alternatives on the WSE, which is related to the high level of inflation in Poland.

As of March 10, 2023, a total of 416 companies are listed on the WSE, of which 373 are domestic companies and 43 are foreign companies. Of this number, 318 companies are listed on the Main Market and 98 companies on the Parallel Market. According to data published by the WSE, the total capitalization of companies listed on the WSE as of May 10, 2023, (in PLN million) is PLN 1,280,212.58. It should be emphasized that throughout 2022, which turned out to be a very difficult year for the WSE, a total of eight companies debuted on the stock exchange. In turn, since the beginning of 2023, there have been four stock exchange debuts. In the same period, throughout 2022, 22 companies were delisted from the WSE. In 2023, one company has been delisted so far.

Importantly, 359 companies are currently listed on the alternative stock market operated by the WSE, i.e., NewConnect (Alternative Trading System – ATS; Alternative Trading Market – jATM), of which 4 companies are foreign companies. The capitalization of the ATS market in Poland amounts (in PLN million) to PLN 14,380.22. Throughout 2022, 16 companies debuted on NewConnect and 17 companies were delisted. In turn, in 2023, 1 debut has taken place on NewConnect so far, and 21 companies have been withdrawn from trading, with some companies switching from ATS to the WSE.

The most represented sector on NewConnect remains the video games sector. On the WSE, on the other hand, companies with State Treasury participation have a strong position. An important part of the stock market in Poland in 2022 was biotechnology companies and companies related to the arms sector. This trend continues to a large extent in 2023.

According to WSE data, corporate bonds issued by 84 issuers are listed on the Catalyst market (as of March 10, 2023), operated by the WSE. In 2022 total issuance value was PLN 1,150,062 million, according to the WSE data. In March 2023, the growing belief in further tightening of monetary policy in the US and Europe causes an increase in the yields of bonds of eurozone countries, which are approaching multi-year highs again.

It is unclear what impact the Silicon Valley Bank (*et al.*) case will have on the Polish capital market, especially the stock market in 2023. It shall be noted, however, that the Polish capital market remains susceptible to investors' emotions, related to, among others, war events beyond the eastern border, which contributed to a significant outflow of foreign investors from Poland. This market is thus subject to constant fluctuations, notwithstanding its mature legislative and regulatory side.

2. Overview of the local stock exchange and listing segments (markets)

The WSE, remaining the only Polish stock exchange, organizes the trade of financial instruments on both a regulated market (i.e., the WSE) and a non-regulated market (i.e., NewConnect), as mentioned above. In addition to that, there is also a part of a debt financial instruments market that is organized by BondSpot S.A. (BondSpot), a company that is a member of the WSE's Capital Group.

2.1. Regulated market

In the field of ECM, the said regulated market is operated by the WSE and has two segments, i.e.: the so-called Main Market (*rynek podstawowy*) and the Parallel Market (*rynek równoległy*). The Main Market is also regarded as the "official exchange (listing) market" in Poland within the meaning of Article 16(2) of the *Polish Financial Instruments Trading Act* of July 29, 2005. This is the market designed and organized for companies that meet certain requirements as issuers, in particular about their (high) capitalization, dispersion of stock ownership (which refers to the minimum number of free-float shares), and disclosure of certain financial information. In other words, this is a regulated market, which fulfills requirements additional to the minimum requirements laid down for the regulated market for issuers of securities and securities that are the subject of trading on this market. On the other hand, the listing requirements applicable on the Parallel Market are more "liberal" if compared to the Main Market, meaning that the Parallel Market is designed and organized for the trading of financial instruments of issuers with lower capitalization and lesser free-float requirements. Both the Main Market and the Parallel Market are commonly known as "the Main Market of the Stock Exchange" (*Rynek Główny GPW/Główny Rynek GPW*).

The WSE (regulated) market has been operating since the launch of the Exchange on April 16, 1991. It is also a regulated market subject to the supervision of the Polish Financial Supervision Authority (both the Main Market and the Parallel Market). The subject of trading on the said market are shares,

bonds, pre-emptive rights, rights to shares (PDAs), investment certificates, structured products, ETFs, warrant options, and derivatives.

According to WSE data, in 2022 the value of IPOs conducted on the WSE amounted to PLN 39.66 million. The value of SPOs in the same period amounted to 8.7 billion.

2.2. Non-regulated market

Simultaneously, next to the regulated WSE market, since 2007, the ATS market is being developed. It remains the WSE that established, develops, and organizes the trade of financial instruments on the so-called NewConnect market. This market is operating as a multilateral trading facility – MTF within the meaning of *Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments* (MIFID II). In July 2019 NewConnect received an SME Growth Market status within the meaning of EU laws. This means, *inter alia*, that listed companies can use regulatory facilitation about certain disclosure requirements under European Union regulations (*EU prospectus regulation No. 2017/1129*, for instance). NewConnect has been designed specifically for small companies whose listing opens genuine opportunities of raising capital by issuing shares while the acceptance of disclosure standards applicable to public companies and resulting experience open the door to listing on the WSE's Main Market. A significant part of the companies listed on NewConnect is companies from the IT sector and video games sector. It is quite common practice, that NewConnect companies usually contemplate entering the Main Market or the Parallel Market upon achieving the required capitalization and meeting other requirements, and some of them in fact move to the WSE after some time from their debut.

NewConnect is supervised by its organizer – the WSE. The conditions of access for market participants, matching offers to buy and sell financial instruments, and providing market information are the same as on the Main Market of the Exchange described above.

According to WSE data, in 2022 the value of IPOs conducted on the NewConnect amounted to PLN 87.12 million. The value of SPOs in the same period amounted to 245.29 million.

In the field of DCM, the Polish capital market comprises a debt financial instruments market, operating under the name of "Catalyst" (Catalyst). Catalyst is the first organized market of debt financial instruments in Poland, which was established in 2009. In the Catalyst structure, there are in fact two retail markets operated by the WSE. Financial instruments such as corporate bonds, municipal bonds, and mortgage bonds are listed on these markets. However, within Catalyst, in fact, four segments have been developed and operate: two of them being "regulated markets" within the meaning of MIFID II, and two of them are operated as MTFs. The WSE operates two segments designed for retail investors (i.e., one of them is in the form of the regulated market and one as an MTF) and BondSpot operates the remaining two segments, which are designed for wholesale investors only.

3. Key Listing Requirements

3.1. ECM

3.1.1. WSE Regulated Market

There are certain legal provisions, both in EU and Polish laws, according to which specific requirements must be met for a company's shares to be admitted for listing on the WSE. Some of them vary, depending on whether the shares are to be listed on the Main Market or on the Parallel Market. Generally speaking, the requirements for listing on the Parallel Market are lighter in comparison to requirements on the Main Market. The said listing requirements are related to the company's legal (corporate, organizational) form, shareholding (ownership) structure, and capitalization. In some instances, the adoption of certain resolutions by the company's general meeting may be required. As a rule, the preparation of a prospectus or other information document is required. This document shall be approved by a competent authority, i.e., Polish Financial Supervision Authority (or other foreign competent authority when applicable or required), and published by a company in a prescribed manner. Each new WSE listing requires also formal consent from the WSE's management board, expressed in a form of a resolution. This resolution is adopted on the admission of the shares to trading on the WSE and the introduction of shares to listing on the WSE.

The key requirements for listings on the WSE, both on the Main Market and the Parallel Market include *inter alia*:

(i) legal (corporate, organizational) form of the company: it is required that the company to be listed must operate in the form of a joint-stock company (including European Company – SE) or in the equivalent form applicable for foreign issuers; this means that if the company operates in any other form, it must first undergo a transformation (conversion) process into a joint-stock company (including European Company – SE),

(ii) minimum capitalization of the company: it is required that the capitalization of the company (understood as the product of the number of all shares of the company/issuer and the forecasted market price) is at least PLN 60 million or the PLN equivalent of EUR 15 million (except for issuers whose shares of at least one issue have been traded for a period of at least six months on another regulated market or on NewConnect, whose capitalization may be at least PLN 48 million or the PLN equivalent of at least EUR 12 million),

(iii) non-limited transferability of the shares of the company: it is required that the transferability of the shares may not be restricted anyhow. This requirement applies both to existing

shares and to new shares to be listed,

(iv) minimum free-float in the company: it is required that the company's shareholders, each of whom is entitled to exercise less than 5% of votes at the general meeting of the company, hold at least: 15% of the shares covered by the application for admission to stock exchange trading, and 100,000 shares covered by the application for admission to stock exchange trading with a value of at least PLN 4 million or the PLN equivalent of at least EUR 1 million, calculated at the last sale or issue price,

(v) potential liquidity of shares: it is required that the company's shares are held by such several shareholders creates the basis for the formation of liquid stock exchange trading,

(vi) general good financial standing of the company: it is required that the company is not in a process of bankruptcy or liquidation, and bankruptcy or liquidation proceedings are not foreseeable,

(vii) an appropriate information document (e.g., prospectus) has been drawn up, and approved by the competent supervisory authority (i.e., the Polish Financial Supervision Authority) unless the preparation or approval of the information document is not required.

According to the WSE regulations, there are also certain requirements that apply to companies considering listings on the Main Market. Those companies, in addition to the requirements set forth above, must follow the following rules:

(i) the application for admission to trading on the Main Market must apply to all the shares of the same type issued by the company,

(ii) the product of the number and forecast market price of the shares covered by the application or, where that price cannot be determined, the company's equity, amounting to at least the PLN equivalent of EUR 1 million,

(iii) minimum free-float: there is a sufficient dispersion of shares covered by the application, i.e. shareholders each of whom hold no more than 5% of the total number of votes at the company's general meeting, there are at least 25% of the shares covered by the application for admission or shareholders, each of which holds no more than 5% of the total number of votes at the company's general meeting, there are at least 500,000 shares of the company with a total value in PLN of at least EUR 17 million. Shares may be admitted despite failure to meet this condition if the WSE Management Board considers that the number of shares covered by the application and the manner in which they were subscribed or sold allows it to be considered that trading in these shares on the main market will be sufficient to provide liquidity or that at least 25% of the shares of the same issuer covered by the application and shares already traded on this market are held by shareholders, each holding no more than 5% of the total number of votes at the company's general meeting or the dispersion of the shares covered by the application has been obtained on another official exchange market in one or more EU Member States,

(iv) the company has published the financial statements together with the opinion of the entity entitled to audit them for at least three consecutive financial years preceding the application for admission or there is a legitimate interest of the company or investors, and the company has made public information enabling investors to assess its financial and economic situation and the risks associated with the acquisition of the shares covered by the application.

When considering an application for admission of securities to exchange trading, the WSE Management Board takes into account: the financial position of the company and its forecast, in particular profitability, liquidity and debt sustainability, as well as other factors affecting the company's financial results prospects for the company's development, in particular the assessment of the feasibility of implementing investment plans, taking into account the sources of their financing, experience, and qualifications of members of the company's management and supervisory bodies conditions under which securities were issued and their compliance with the principles of public trading on the stock exchange, specified in joint resolutions of the WSE Supervisory Board and the WSE Management Board security of exchange trading and the interest of its participants.

3.1.2. NewConnect

It must be emphasized, that the requirements for listing on NewConnect are significantly more liberal than those designed for the WSE-regulated market listings. This is justified by the need to ensure access to capital for smaller companies that would not be able to raise it on a regulated market while ensuring a sufficient level of investor protection. The main differences between listing on NewConnect listing and the WSE-regulated market refer to the minimum required capitalization of the company of PLN 500,000 and the minimum free-float requirement. According to NewConnect internal regulations, at least 15% of the shares referred to in the application for admission to listing on NewConnect must be held by no fewer than ten shareholders, and each of such shareholders may hold no more than 5% of the total number of the votes exercisable at the company's general meeting. The company applying for admission to listing on NewConnect is required to publish the audited financial statements for the year prior to the date of the application for admission. It shall be noted, that NewConnect is a place for new issuers, i.e., companies that are going public through the IPOs and for companies that want to become public without issuing new shares. After a NewConnect debut, the company shall be also supported by the so-called Authorized Advisers for at least two years to ensure that, *inter alia*, the company performs the listed company's duties in a proper manner.

3.2. DCM

The introduction of bonds to listing on the Catalyst, which is a debt financial instruments market in Poland, requires the satisfaction of similar requirements as with respect to shares. This means the following: **(i)** only certain entities may issue bonds (including limited liability companies, joint-stock companies, limited joint-stock partnerships, and municipalities); **(ii)** all new bonds must be in dematerialized form; **(iii)** the publication of an applicable information document is required (i.e., prospectus or an information memorandum), which, subject to numerous exceptions, shall be approved by the Polish Financial Supervision Authority; **(iv)** the transferability of the bonds may not be restricted or excluded; and **(v)** no bankruptcy or liquidation proceedings may be pending with respect to the bond issuer. It is also required that for purposes of the introduction of debt financial instruments for trading in the alternative system total nominal value of the debt financial instruments covered by applications at the date of its submission, taking into account the maximum number of applications specified in the application, subject to the same ISIN code, is at least PLN 5 million. This requirement shall not apply in the case of introducing debt instruments to the alternative trading system financial funds to be identified by the same ISIN code as the instruments already listed. When the issuer applies for the first time for the introduction of debt financial instruments for trading in the alternative system – the issuer presents the financial statements in the information document, or consolidated financial statements for the last financial year, prepared and examined in accordance with the provisions of Polish ATM Regulations. However, some exceptions from that requirement are established.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

The general legal rules defining the regime and basic scope of the disclosure, both for the equity capital and debt securities offerings in Poland, are regulated on the European Union level. The key legal act in this field is the *Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 "on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market and repealing Directive 2003/71/EC"* (Prospectus Regulation). The Prospectus Regulation has been supplemented by lower-rank legislations over the last years, mainly with delegated acts adopted by European Commission *(inter alia*, *Delegated Regulations No. 2019/980* and *No. 2019/979*). All those legal acts are applicable directly throughout the European Union and as such, they not only define the specific requirements to be complied with when preparing a prospectus (as well as other offering documents that may be required *in concreto*), or the requirements related to their approval by the competent local authorities but also making them available to the public. Those rules are set to converge approaches within the EU Member States in the field of prospectus regulation and approval, as well as to ensure investor protection and market efficiency while enhancing the internal market for capital in the EU. All the types of prospectuses that can be prepared and approved in Poland are defined expressly in the Prospectus Regulation. Polish (local) legal acts define, however, other types of documents that shall be drafted up for purposes of public offerings. Those documents are less elaborate than a standard prospectus.

Notwithstanding the said EU legal acts, certain additional requirements within the scope not regulated by the Prospectus Regulation and the delegated regulations under the Prospectus Regulation are also included in national regulations. In Poland it is mainly the *Polish Act on Public Offerings, Conditions Governing the Admission of Financial Instruments to Organized Trading and Public Companies of 29 July 2005 as amended* (Act on Public Offering). It must be noted, that in addition to those regulations, the guidelines, recommendations, and standards established by the European Securities and Markets Authority (ESMA) relating to the prospectus, being temporality updated as well as guidelines issued by the Polish Financial Supervision Authority or even certain market practice do affect the prospectus preparation process and prospectus disclosure.

It must be emphasized that the Prospectus Regulation shall be applicable to the offers of securities to the public as well as to admissions of securities to trading on the regulated market.

According to Article 2(d) of the Prospectus Regulation, an "offer of securities to the public" means communication to persons in any form and by any means, presenting sufficient information on the terms of the offer and the securities to be offered, so as to enable an investor to decide to purchase or subscribe for those securities. This definition also applies to the placing of securities through financial intermediaries. In other words, offers addressed to one person/entity are not considered public offerings within the meaning of the Prospectus Regulation and therefore this Regulation shall not apply to them.

The general obligation of preparation (drawing up), approval, and dissemination of a prospectus approved by a competent authority for purposes of public offerings or admissions of securities to trading on the regulated market has certain exemptions that are defined in Article 1 of the Prospectus Regulation. For instance, the Prospectus Regulation shall not apply to certain types of securities, e.g., units issued by collective investment undertakings other than the closed-end type or non-equity securities issued by a Member State or by one of a Member State's regional or local authorities, by public international bodies of which one or more Member States are members, by the European Central Bank or by the central banks of

the Member States, or shares in the capital of central banks of the Member States. Moreover, the Prospectus Regulation shall not apply to an offer of securities to the public with a total consideration in the EU of less than EUR 1 million, which shall be calculated over a period of twelve months.

The prospectus obligation is not applicable to certain offers, *inter alia* to offers addressed solely to qualified investors; offers addressed to fewer than 150 natural or legal persons per Member State other than qualified investors; offers of securities whose denomination per unit amounts to at least EUR 100,000; offers of securities addressed to investors who acquire securities for a total consideration of at least EUR 100,000 per investor, for each separate offer; shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase in the issued capital; securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2) of the Prospectus regulation, containing information describing the transaction and its impact on the issuer; securities offered, allotted or to be allotted in connection with a merger or division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2) of the Prospectus Regulation, containing information describing the transaction and its impact on the issuer; securities offered, allotted or to be allotted to existing or former directors or employees by their employer or by an affiliated undertaking provided that a document is made available containing information on the number and nature of the securities and the reasons for and details of the offer or allotment (e.g., for the purposes of the so-named ESOP programs).

Moreover, the prospectus obligation is not applicable to certain admissions of securities to trading on the regulated market, *inter alia* to securities fungible with securities already admitted to trading on the same regulated market, provided that they represent, over a period of twelve months, less than 20% of the number of securities already admitted to trading on the same regulated market; shares resulting from the conversion or exchange of other securities or from the exercise of the rights conferred by other securities, where the resulting shares are of the same class as the shares already admitted to trading on the same regulated market, provided that the resulting shares represent, over a period of twelve months, less than 20% of the number of shares of the same class already admitted to trading on the same regulated market (subject to the second subparagraph of Article 1(5) of the Prospectus Regulation); shares issued in substitution for shares of the same class already admitted to trading on the same regulated market, where the issuing of such shares does not involve any increase in the issued capital; securities offered in connection with a takeover by means of an exchange offer, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2) of the Prospectus Regulation, containing information describing the transaction and its impact on the issuer; securities offered, allotted or to be allotted in connection with a merger or a division, provided that a document is made available to the public in accordance with the arrangements set out in Article 21(2) of the Prospectus Regulation, containing information describing the transaction and its impact on the issuer; securities offered, allotted or to be allotted to existing or former directors or employees by their employer or an affiliated undertaking, provided that the said securities are of the same class as the securities already admitted to trading on the same regulated market and that a document is made available containing information on the number and nature of the securities and the reasons for and detail of the offer or allotment (e.g., for the purposes of the so-named ESOP programs).

It shall be noted, however, that as a rule, the above-mentioned exemptions set out in Article 1(4) and (5) may be combined together (i.e., may be applied jointly). However, certain exemptions shall not be combined together if such combination could lead to the immediate or deferred admission to trading on a regulated market over a period of twelve months of more than 20% of the number of shares of the same class already admitted to trading on the same regulated market, without a prospectus being published.

It shall be emphasized that where an offer of securities to the public or an admission of securities to trading on a regulated market is outside the scope of this Regulation in accordance with Article 1(3) of the Prospectus Regulation, or exempted from the obligation to publish a prospectus in accordance with Article 1(4), 1(5) or 3(2), an issuer, an offeror or a person asking for admission to trading on a regulated market shall be entitled to voluntarily draw up a prospectus in accordance with the Prospectus Regulation. However, such voluntarily drawn up prospectus shall be approved by the competent authority of the home Member State, as determined in the Prospectus Regulations, and shall be subject to all provisions of this Regulation, under the supervision of that competent authority.

As a rule, a prospectus may be drawn up in the form of a single document or a set of documents comprising a registration document, an offer document, and a summary. The most common practice in Poland, depending on the case, however, is to prepare a prospectus in the form of a single document. All the prospectuses approved by the Polish competent authority may be found on the Polish Financial Supervision Authority's website.

The basic scope of the disclosure for the capital securities offerings/ admissions in Poland is regulated on the European Union level, mainly in the Prospectus Regulation and delegated legal acts hereto, including *inter alia Delegated Regulations No.*

2019/980. The crucial parts of the prospectus for debt securities are: a detailed description of securities, a description of risk factors specific to the issuer, and the securities and terms of the offering.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

The general legal rules defining regime and basic scope of the disclosure, are common for the capital and debt securities offerings in Poland, and as such are regulated on the European Union level, mainly in the Prospectus Regulation and delegated legal acts hereto, including *inter alia Delegated Regulations No. 2019/980*. The crucial parts of the prospectus for debt securities are: a detailed description of securities, a description of risk factors specific to the issuer and the securities, terms of the offering, and the guarantees.

4.3 Local market practice considerations

The Prospectus Regulation expressly allows EU Member States to be exempt from the prospectus obligation offers of the value between EUR 1 million and 8 million. In Poland this exemption relates to offers under EUR 2.5 million).

According to Article 37a of the Act on Public Offering, an offer of securities to the public as a result of which the assumed gross proceeds of the issuer or offeror within the territory of the European Union, calculated at their issue or sale price at the date of its determination, is not less than EUR 100,000 and less than EUR 1 million, and together with the proceeds which the issuer or offeror intended to obtain from offers of such securities to the public, made in the previous twelve months, will not be less than EUR 100,000 and will be less than EUR 1 million, requires that a document containing information about this offer be made available to the public. The said document shall be drawn up in Polish and shall contain at least: **1)** basic information about the issuer of the securities, including financial information, information about the securities offered and the terms and conditions of their offer; **2)** basic information on the planned use of funds obtained from the issue of securities; **3)** basic information on relevant risk factors; **4)** a statement of responsibility/ liability by the issuer for the information contained in this document. This issuer's statement shall contain a statement that, to the best of its knowledge and with due diligence, the information contained in the document is true, reliable, and consistent with the facts. The issuer or the offeror shall notify the Polish Financial Supervision Authority of its intention to conduct a public offer no later than seven working days before the date of availability of the document mentioned above.

According to Article 37b of the Act on Public Offering, the prospectus shall not be required for purposes of an offer of securities to the public, as a result of which the assumed gross proceeds of the issuer or offeror in the territory of the European Union, calculated at their issue price or the sale price on the date of its determination, are not less than EUR 1 million and less than EUR 2.5 million, and together with the proceeds which the issuer or offeror intended to receive from such offers to the public of such securities made during the previous twelve months, shall not be less than EUR 1 million and shall be less than EUR 2.5 million, provided that an information memorandum is made available. The said information memorandum shall be drawn up in the form of a single document in Polish. The provisions of Article 19 of the Prospectus Regulation shall apply mutatis mutandis to that information memorandum. The issuer or the offeror is obliged to set the validity date of the information memorandum, no longer than twelve months from the date of its disclosure. The issuer or the offeror notifies the Polish Financial Supervision Authority of its intention to conduct a public offer no later than seven working days before the date of making the information memorandum available. The issuer or the offeror shall make the information memorandum available at the latest on the date of commencement of subscriptions for the securities which are the subject of the offer to the public. The information memorandum shall be made available by the issuer or the offeror in a manner that ensures adequate protection of investors' interests and, in the case of an offer to the public addressed to an unspecified addressee, shall be made available by publication on the website of the issuer, the offeror or the investment firm intermediating the offer of those securities to the public.

According to Article 37c of the Act on Public Offering, an offer of securities to the public through a crowdfunding service provider shall require the availability of a key investment information sheet. The crowdfunding service provider shall provide the key investment information sheet to the Polish Financial Supervision Authority at least seven working days before the date on which it is made public. An issuer may make the key investment information sheet available on its website no earlier than after the crowdfunding service provider has made it publicly available, stating that participation in the public offer is only possible through a crowdfunding service provider designated by the issuer. It shall be mentioned, that currently in Poland operate several crowdfunding service providers. Some of them are quite new, and some of them are quite experienced. It is expected that new crowdfunding service providers will be established soon since crowdfunding has been becoming more and more popular in Poland over the last few years.

Marketing of offers is generally regulated in Article 22 of the Prospectus Regulation and in a *Delegated Regulation No. 2019/979*. According to Article 22(1), any advertisement relating either to an offer of securities to the public or to an admission to trading on a regulated market shall comply with the principles contained in Article 22(2) to (5). However, Sections 2. to 4. and point (b) of Section 5. shall apply only to cases where the issuer, the offeror, or the person asking for

admission to trading on a regulated market is subject to the obligation to draw up a prospectus. Article 22(2) and (3) of the Prospectus Regulation expressly state that advertisements shall state that a prospectus has been or will be published and indicate where investors are or will be able to obtain it. Advertisements shall be clearly recognizable as such. The information contained in an advertisement shall not be inaccurate or misleading and shall be consistent with the information contained in the prospectus, where already published, or with the information required to be in the prospectus, where the prospectus is yet to be published. *Polish Act on Public Offering* additionally states in Article 53, that the advertisement of an offer to the public referred to in Article 1(4)(b) of the Prospectus Regulation may only be distributed to fewer than 150 persons on the territory of one Member State and may not be made available to an unspecified addressee. Moreover, where the provisions of the Prospectus Regulation do not require the disclosure of a prospectus, the advertising content should be consistent with the information contained in the information memorandum or other document required by the provisions of the *Polish Act on Public Offering* or the Prospectus Regulation, made available to the public, or with the information that should be included in such a memorandum or document in accordance with the provisions of the *Act on Public Offering*, the Prospectus Regulation and delegated acts and implementing measures issued on the basis thereof where the information memorandum or document has not yet been made available to the public, and must not mislead investors as to the issuer's situation and the assessment of the securities. Where a prospectus is required to be available, advertising shall not start before the application for approval of the prospectus (or its respective part, as stated in Article 6(3) and Article 7 of the Prospectus Regulation) has been submitted to the Polish Financial Supervision Authority.

4.4. Language of the prospectus for local and international offerings

According to Article 27(2) of the *Act on Public Offering*, a prospectus subject to the approval of the Polish Financial Supervision Authority shall be drawn up in Polish. However, if the securities offered to the public or admission to trading on a regulated market is to take place only in a Member State other than the Republic of Poland – in Polish or English, at the choice of the issuer or offeror.

Moreover, according to Article 35a of the Act on Public Offering, in the case of a public offer or admission to trading on a regulated market in the territory of the Republic of Poland as a host Member State within the meaning of Article 2(n) of the Prospectus Regulation, a prospectus drawn up in Polish or English or translated into one of these languages, at the choice of the issuer or offeror, shall be made available to the public. However, if the prospectus is made available to the public in English, at the same time, the summary of the prospectus shall be translated into Polish.

5. Prospectus Approval Process

5.1. Competent authority/regulator

As a rule, a prospectus or other offering/information document of a Polish issuer subject to approval based on EU or national regulations must be submitted to the Polish Financial Supervision Authority through the intermediation of an investment firm (e.g., a brokerage house chosen by an issuer). This is the only authority in Poland competent in that respect, being a "competent authority" within the meaning of the Prospectus Regulation.

5.2. Timeline, review, and approval process

The process of drawing up a prospectus and the basic rules related to its publication and approval is regulated by the Prospectus Regulation. Other matters related to prospectus and IPO/SPO are regulated in Polish acts: the *Polish Financial Instruments Trading Act* of July 29, 2005, and the *Polish Act on Public Offering*.

A prospectus may be approved at the issuer's request filed together with the prospectus and other required documents.

In each case, a prospectus (or another required document, depending on the case) submitted to the Polish Financial Supervision Authority must be signed and complete, i.e., must include all of the relevant information, schedules, financial statements, auditor's report as well as representations required under applicable laws. In each case, it is an issuer or the offeror that is liable for the full content of the prospectus. The Polish Financial Supervision Authority is not involved in the preparations of the said documents, but to avoid any doubts it is possible to discuss with the Authority the structure of the prospect offering, its timeline, or some information to be revealed in the required document. It is worth mentioning, that the Polish Financial Supervision Authority is known for exhibiting significant scrutiny in terms of the details of the prospectus disclosure. Experience shows that there are certain matters particularly examined by the Polish Authority, which may result in detailed questions addressed to the issuer/offeror or demand for changes to the content of the prospectus.

The whole prospectus approval process takes a few months (usually approximately two to three months, depending on the type of offering, i.e., IPO or SPO or the industry/sector of the issuer. However, in some specific instances, it may take much longer.

As mentioned above, prior to the approval of the prospectus, during the prospectus administrative procedure, the Polish Financial Supervision Authority may provide comments or demand modifications to the prospectus or additional disclosure (usually there are a few rounds of comments from the Authority, i.e., three to five). Finally, the Polish Financial Supervision

Authority issues an administrative decision on the approval of the prospectus, or alternatively, refuses to approve it. As a rule, and according to the Prospectus Regulation, each prospectus shall be published, and thus the offer of securities in Poland can be commenced, only after obtaining the approval of the prospectus by the Polish Financial Supervision Authority. Alternatively, notification to the Polish Authority by the competent foreign regulatory authority approving the prospectus in a different jurisdiction (under the EU passporting procedure) is required. According to the Prospectus Regulation, each prospectus shall be made available to the public in different ways, but the most common practice in Poland is its publication on the issuer's/offeror's website.

It shall be emphasized that the Prospectus Regulation and delegated acts connected therewith as well as the ESMA's recommendations and guidelines intended to unify the disclosure regimes in the EU, with respect to offering documents being subject to the approval of the Polish Financial Supervision Authority, there are still some differences or additional requirements resulting from the market practice established by the Polish Authority. They are not significant, but it is always worth examining the current recommendations and opinions from the Polish Authority, which are regularly published on their website (knf.gov.pl).

The regime of civil liability for the information contained in a prospectus and the supplement thereto is regulated in Article 98 of the *Polish Act on Public Offering*. According to these provisions, as a rule, the entity responsible for the accuracy of the information contained in the prospectus, information memorandum, and other documents prepared and made available in connection with a public offering of securities, admission of securities, or financial instruments other than securities to trading on a regulated market or applying for such admission, and for the fact that these documents do not omit anything that could affect their meaning, in particular for the fact that this information is true, reliable and complete. That entity is obliged to repair the damage caused by making information inconsistent with the factual state available to the public, or information that could affect the meaning of the documents made available, including untrue, unreliable, or incomplete information unless neither that entity nor the persons for whom that entity is responsible are at fault. Moreover, the information contained in the summary of the prospectus as well as in the specific summary of the EU Growth prospectus, including their translations, are not the basis for civil liability, unless, read together with the other parts of the prospectus, they are misleading, untrue, imprecise, inconsistent with the relevant parts of the prospectus or do not provide key information to help investors in making an investment decision. The prospectus summary shall contain a clear warning in this regard.

The above-mentioned liability rests on, *inter alia*:

(i) the issuer – and relates to all information in a prospectus (or other applicable documents, including supplements),

(ii) the offeror,

(iii) another entity or natural person preparing or participating in the preparation of information – and relates to the information that entity or person has prepared or in the preparation of which participated (for instance: the legal advisor to the issuer within the prospectus preparation process is responsible for the parts relating to a description of the legal environment/matters).

The liability of the said entities shall be joint and several and may not be limited or excluded. This does not exclude, however, the possibility of concluding an agreement setting out the mutual obligations of these entities in respect of this liability.

In any case, the scope of civil liability depends on: **(i)** the fault of the abovementioned entities; and **(ii)** the investor proving loss and the link between such loss and the omission or inaccuracy of information. This is why the regime of prospectus liability in Poland remains strict for both parties, i.e., the investor and the liable entity or person.

Each prospectus must indicate the responsible entities together with their declarations that, to the best of their knowledge, the information contained in the prospectus is consistent with the state of facts and the prospectus does not omit anything that could affect its meaning and, in particular, that the information included therein is true, accurate and complete.

For entities obliged to prepare a prospectus for purposes of public offerings or admission to the public market, the Polish Financial Supervision Authority prepared a useful tool: the "prospectus guide" which is temporally updated and available on its website (knf.gov.pl). In this publication potential issuers and securities offerors may find important guidance on how to properly prepare a prospectus, which will then be reviewed by the Polish Financial Supervisory Authority.

6. Listing Process

6.1. Timeline, process with the stock exchange

Listing Process

As a rule, the listing of securities on the regulated market in Poland requires their admission to trading by the relevant market operator. All the securities shall be dematerialized. In particular, the dematerialization of any shares (both public and private companies) is mandatory in Poland.

Standard documents that shall be submitted directly following the final allocation of the shares to investors in Poland are the applications for admission to trading and introduction to listing on the WSE. Those applications are to be submitted to the WSE, i.e., the Management Board of the WSE. It is mandatory to attach to the said applications with certain doc-

uments, *inter alia*: a prospectus or other information/offering document and a resolution/statement of the National Depositary of Securities (*Krajowy Depozyt Papierow Wartosciowych*) on the registration of the shares with the depository operated by the National Depositary of Securities as well as the opinion of the so-called WSE participant (e.g., an investment firm being a WSE member).

In 2021, the WSE made changes to stock exchange regulations as part of the IPO process optimization project, which aims to shorten the time from the allocation of shares to the date of debut on the regulated market. Thanks to the introduced changes, issuers debuting on the WSE Main Market (both the Main Market and Parallel Market) submit one combined application to the WSE, instead of the previous two separate applications for admission and introduction. This change significantly simplified the formalities related to the admission of shares and PDAs to stock exchange trading. The required scope of an investment firm's opinion on the debuting company and its securities has also changed, which is a mandatory element of the documentation submitted to the WSE by each company intending to debut on the WSE Main Market. Issuers' applications may be submitted in paper form, with the handwritten signatures of authorized persons. As an equivalent form of submitting an application, an application sent by e-mail, in PDF format, with qualified electronic signatures or trusted signatures is also admissible.

It shall be emphasized that all the shares of the WSE-listed company shall be registered in the National Depositary of Securities. It is also worth mentioning that the conditional trading of shares on the WSE, i.e., prior to the first listing day, is unacceptable. However, before newly issued shares are listed (i.e., created and admitted to WSE listing/trading), it is possible and very common to list on the WSE rights to shares (PDA), that are securities representing rights to newly issued shares, before their registration by the respective registry court competent for a particular issuer. It usually takes a few weeks to obtain a resolution from the WSE Management Board on admission to trading and introduction to listing on the WSE for the first time, starting from the date of submission of the application by the issuer.

Following the satisfaction of all the listing requirements described in Section 3., the company being an issuer may apply for the admission and introduction to trading of securities on the chosen marker or markets. With respect to shares to be admitted to trading on the regulated market operated by the WSE (both the Main and Parallel Market), following the formal application of the issuer, the WSE issues its decision by way of the adoption of one resolution or two resolutions, depending on a case. The first resolution is on the admission, and then on the introduction of securities to trading which sets the first listing date within approximately seven days of the submission of the application by the issuer (within approximately 10 days after the pricing of the offering). If the securities of the same type issued by the issuer are already listed on this market, the single resolution is issued, both on admission and introduction, setting the first listing date. In particular, the WSE resolution on the introduction of shares to trading is conditional, i.e., is adopted subject to the fact that the National Depositary of Securities on the date of the first listing of shares will register these shares and mark them with a dedicated ISIN code, uniform for all other shares of that issuer.

It shall be emphasized that investors acquiring shares are obliged to pay for the shares prior to the final share allocation. Subsequently, all the shares allocated to investors are registered on their securities accounts ca. one week upon payment, and prior to the first listing day on the WSE. This is the reason why in some instances it is worth considering listing also PDAs, before the shares may be listed. The detailed timing for admission and introduction of shares to trading is usually pre-agreed by the issuer with the WSE. Especially, in the application for admission and trading, the issuer shall provide the expected date of the first listing (*proposed share introduction date/ PDA (company debut)*).

On the Polish market, it is the Catalyst market that is used to trade bonds. Individual series of bonds (specific debt issues of a given entity) are listed on it. Each series of corporate bonds listed on Catalyst has a document describing parameters such as interest rate, frequency of interest payments, and period to maturity. Similarly, as in the case of the shares stock market, the listing of bonds requires the submission of an appropriate application and the adoption of a resolution by the WSE Management Board or the Management Board of BondSpot S.A. on their admission and introduction to trading, depending on which market is chosen by issuer (regulated or alternative market). All the listed bonds need to be in a dematerialized form and shall be registered in the National Depositary of Securities. As a rule, the resolution regarding the admission of bonds to trading on the regulated market is taken by the management board of the company operating the regulated market (i.e., the WSE or BondSpot S.A.) within fourteen 4 days from the date of submission of the application. Convertible bonds, pre-emptive bonds (or subscription warrants) may be admitted to trading on an official listing market, provided that the shares issued for the exercise of the rights conferred by those securities are at the same time the subject of an application for admission to trading on that market or are already listed on the same or another official listing market or on a regulated market in another EU Member State.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

WSE-listed companies, both listed on the Main Market and on the Parallel Market, shall comply with the corporate governance code designed for listed companies. The WSE Supervisory Board in its *Resolution No. 13/1834/2021* of March 29, 2021, approved the new principles of corporate governance for companies listed on the WSE Main Market, the co-called *Best Practice for WSE Listed Companies 2021* (Best Practice 2021/ Best Practice). It shall be emphasized that it is a new edition of the code of corporate governance for companies listed on the GPW Main Market, originally approved in 2002. The Best Practice 2021 came into force on July 1, 2021. It must be noted that listed companies' compliance with the principles of corporate governance stipulated in the Best Practice is optional, according to the "comply or explain" general rule. Notwithstanding its optional or voluntary legal nature, listed companies are required to disclose compliance with the Best Practice in accordance with the WSE Rules. WSE-listed companies are therefore required to publish their disclosures of compliance with the Best Practice 2021 as a part of their annual financial statements to be published in a form of periodic reports.

NewConnect issuers shall comply with a similar code. It is the *Best Practice for NewConnect Market* of 2010 adopted by the WSE Management Board.

Independent Director

According to the Best Practice 2021, WSE listed company's members of the management board act in the interest of the company and are responsible for its activities. The management board shall be responsible for, in particular, managing the company, involvement in setting its strategic goals and their implementation, and ensuring the company's efficiency and security. Members of the supervisory board within the scope of their function and duties in the supervisory board are guided in their conduct, including decision-making, by the independence of their own opinions and judgments, and acting in the interest of the company. There is no separate "independent director" required, however, there can be if the company operates in a form of a European Company (SE) with one-tier corporate bodies.

Management Board and Supervisory Board composition

According to the Best Practice 2021, the WSE company should have a diversity policy towards the management board and the supervisory board, adopted respectively by the supervisory board or the general meeting. The diversity policy defines the objectives and criteria of diversity, *inter alia* in such areas as gender, the field of education, specialist knowledge, age, and professional experience, as well as indicates when and how the achievement of those objectives will be monitored. In terms of gender differentiation, the condition for ensuring the diversity of the company's bodies is the participation of minorities in a given body at a level not lower than 30%.

The composition of the Management Board and Supervisory Board of every listed company is generally regulated in *Polish Commercial Companies Code*. The management board shall be composed of at least one member. The supervisory board shall be composed of at least five members. The exact composition or the number of members of each of those corporate bodies shall be always defined in the Articles of Association.

According to the Best Practice 2021, at least two members of the supervisory board meet the independence criteria set out in the *Polish Act of May 11, 2017, on statutory auditors, audit firms, and public oversight*, and there shall be no real and relevant relations with a shareholder holding at least 5% of the total number of votes in the company.

Committees

Each WSE-listed company is obliged to appoint the audit committee as a body within the supervisory board, consisting of members of the supervisory board. NewConnect-listed companies may appoint an audit committee, but it is not mandatory. For purposes of audit committee establishment, according to *the Act on statutory auditors, audit firms, and public oversight*, the WSE listed company, as a company from the regulated market, is named a "public interest entity."

A listed company shall maintain effective systems of internal control, risk management, and compliance supervision activities with the law (compliance), as well as an effective internal audit function, appropriate to the size of the company and the type and scale of the activities for which the management board is responsible. However, where an audit committee is in place within the company, it also shall monitor the effectiveness of the said systems and functions, even though this does not exempt the supervisory board from making an annual assessment of the effectiveness of these systems and functions.

The audit committee shall consist of at least three members. At least one member of the audit committee shall have knowledge and skills in accounting or auditing. Most of the members of the audit committee, including its chair, are independent of the company concerned. A member of the audit committee shall be considered independent if he or she meets the criteria defined in Article 129(3) of the Act on statutory auditors, audit firms, and public oversight. Among others, the audit committee shall be considered independent if he or she:

(i) does not belong to or in the last five years from the date of appointment did not belong to senior management, including is not or was not a member of the management board or other management body of the relevant listed company or an entity

affiliated with it,

(ii) is not and has not been in the last three years from the date of appointment an employee of a given listed company, or an entity affiliated with it, except when the member of the audit committee is an employee not belonging to senior management, who was elected to the supervisory board or other supervisory or control body of a given company as a representative of employees,

(iii) does not receive or has not received any additional remuneration, in a significant amount, from the listed company concerned or an entity affiliated with it, except for remuneration received as a member of the supervisory board or other supervisory or control body, including an audit committee.

WSE listed company's supervisory board may itself perform functions of the audit committee.

The Polish Financial Supervision Authority monitors compliance with the provisions concerning the appointment, composition, and functioning of the audit committee or the supervisory board or other supervisory or control body if they are entrusted with the function of the audit committee. This rule applies to WSE-listed companies, i.e., companies listed on the regulated market only.

Notwithstanding the audit committee, there may be other committees that can be appointed in the listed companies. According to the Best Practice 2021, the WSE-listed company may appoint, within the supervisory board, a remuneration committee and nomination committee. Those committees are voluntary and therefore not many listed companies in Poland have appointed them so far.

7.2. Any other ESG considerations

According to the Best Practice 2021, in order to ensure proper communication with stakeholders, the WSE-listed company may publish the scope of the adopted business strategy on its website, information on the assumptions of its strategy, measurable goals, including in particular long-term objectives, planned activities and progress in its implementation, determined by means of measures, financial and non-financial. Information on ESG strategies should, *inter alia*:

(i) explain how the decision-making processes in the company and its group entities take into account related to climate change, pointing to the resulting risks,

(ii) present the value of the equal pay index paid to its employees, calculated as the percentage difference between the average monthly salary (including bonuses, awards, and other allowances) of men and women for the last year, and provide information on the measures taken to abolish possible inequalities in this area, together with the presentation of the risks associated with it and the time horizon, in which it is planned to bring about equality.

Moreover, according to the Best Practice, at least once a year, the WSE-listed company shall disclose the expenses incurred by it and its group to support culture, sport and institutions charities, media, social organizations, trade unions, etc. If, in the year covered by the report the company or its group incurred expenses for such purposes, the information contains a statement of these expenses. These are only best practices, so not every WSE-listed company complies with them nowadays.

It shall be noted that ESG is becoming more and more popularized in Poland. However, today, it is quite impossible to assess the real impact of the ESG concept on investors' decisions and their perception of a particular company. It has been shown that some companies use ESG as a greenwashing tool, and as such, it has been widely criticized by the public.

8. Ongoing Reporting Obligations (Life as a Public Company)

8.1. Annual and interim financials

ECM

Issuers from WSE regulated market (both Main Market and Parallel Market) as well as issuers from the ATM, i.e., NewConnect market, are obliged to perform the so-called information duties (information obligations) that are imposed after the offering of equity securities (continuing obligations). These duties relate to financial information, which shall be revealed mainly in a form of periodic reports, and current information, which is revealed in a form of current reports. Current reports shall be published under the *EU Market Abuse Regulation* (*No. 596/2014*) or, depending on the case, based on the Polish regulation of the Minister of Finance on current and periodic reports of March 29, 2018. NewConnect issuers perform the said duties based on internal market regulations, i.e., the rules adopted by the WSE Management Board for ATM. Each listed company, both WSE listed and NewConnect listed, shall provide information on dates of periodic reports to be published in each calendar year – this information shall be provided by the end of January each calendar year, in a form of a periodic report (the so-called ESPI report or EBI report). This allows investors and the market per se to get to know when exactly particular issuers are going to reveal periodic reports containing historical financial information. Each listed issuer is obliged to publish, in a form of a periodic report, an annual financial statement together with certain appendices or reports (e.g., a report on complying with the Best Practice 2021), which can be standalone or consolidated, when prepared for the issuer's capital group. Each issuer shall also publish quarterly periodic reports, i.e., for the first and third quarters and the report for the first half of the year. In some instances, issuers may resign from the publication of quarterly reports for the last quarter of the year. It is mandatory to have each

annual financial statement audited by an independent audit firm. On the regulated market, financial statements for the first half of the year (i.e., financial year) shall be also examined by the auditor, but the scope of the said examination is narrower than the scope of the annual audit. The required scope of each periodic report is strictly regulated in the applicable legal provisions (for issuers from the regulated market) or inapplicable internal market regulations, i.e., the rules adopted by the WSE Management Board for ATM. It shall be noted, that periodic reports should not contain any inside information within the meaning of Article 7 of the MAR Regulation.

DCM

Similar information duties are imposed for the issuers from the Catalyst market that are obliged to perform the so-called information duties after the offering of debt securities (continuing obligations). Issuers are obliged to provide periodic reports, i.e., annual financial statements, semiannual and quarterly, in accordance with applicable internal market regulations, i.e., the rules adopted for Catalyst or with applicable laws for issues from the regulated market. Similarly, as in the case of the stock market (ECM), each Catalyst listed company shall provide information on dates of periodic reports to be published in each calendar year – this information shall be provided by the end of January each calendar year, in a form of a periodic report (the so-called ESPI report or EBI report). This allows investors and the market per se to get to know when exactly particular issuers are going to reveal periodic reports containing historical financial information. The required scope of each periodic report is strictly regulated by the applicable legal provisions.

8.2. Ad hoc disclosures

Each listed company is obliged to disclose material information, i.e., the so-called inside information within the meaning of Article 7 of the MAR Regulation, in a form of a current report (the so-called ESPI report). Inside information of that type is to be published based on Article 17 of the MAR. This duty is imposed both on issuers from the regulated market and ATM. Inside information shall be disclosed without any delay. Notwithstanding that duty, issuers are obliged to perform other information duties based on applicable regulations: ATM internal regulations or on Polish regulation of the Minister of Finance on current and periodic reports of March 29, 2018. Other information duties are based directly on other MAR Regulation's provisions or on other regulations applicable to certain issuers, depending on the specific sector that issuers may belong to (e.g., financial institutions).

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

The capital market in Serbia is still under development. Serbia's capital market took a pause from the Second World War until the last decade of the twentieth century during which period Serbia did not have a market-based economy, and its economy was governed by socialist principles. At the end of the twentieth century, Serbia reaffirmed a market economy and started redeveloping its capital market. While a number of measures have been taken in that direction (for example, almost all joint stock companies had to be listed, as a result of which even today there is a proportionally significant number of listed companies in Serbia), there is still a long way to go.

The Belgrade Stock Exchange (BELEX) is the only stock exchange in Serbia. It recorded a total turnover of approximately EUR 326 million in 2022, and approximately EUR 22 million by mid-March 2023 (the biggest turnover in the last 10 years was in 2019 when the turnover was approximately EUR 780 million). At this stage, there are not any available comprehensive analyses and reports on market trends in 2022. Securities traded on BELEX include shares, and bonds (basically, these are only bonds of the Republic of Serbia). Therefore, the debt market in particular has room for improvement.

In the last decade, there has been a steady trend of a constant decrease in the number of issuers of financial instruments and the number of public joint-stock companies, according to publicly available data. On the other hand, in 2018, the first initial public offering (IPO) of shares in almost 80 years was successfully completed in Serbia. Shares of Fintel Energy a.d. Belgrade were included on the Prime Listing and after the successfully-completed IPO the company's stock trading started on 20 November 2018.

From the regulatory perspective, a new *Capital Market Law* (the Law) started being applied in January 2023. The provisions of the Law are aimed at further harmonization of the local legal and institutional framework with the European Union's regulations of financial instrument markets. Hopefully, this will contribute to BELEX becoming more attractive for foreign investors, especially taking into account that the Athens Stock Exchange, as one of the largest stock exchanges in Southeast Europe, acquired 10.24 % of the shares in BELEX.

Also in January 2023, BELEX, as a part of the modernization and innovation of the Serbian capital market, launched the first online application for over-the-counter (OTC) transactions which enables easier delivery of necessary information about the completed OTC transactions on BELEX.

2. Overview of the local stock exchange and listing segments (Regulated and Non-regulated markets)

The capital market in Serbia is primarily regulated by the Law and related by-laws and the main regulator is the Securities Exchange Commission of Serbia (SEC).

In accordance with the Law, the Serbian capital market is structured in the following manner:

- regulated market, comprising of:
  - listed segment, and
  - non-listed segment,
- multilateral trading facility (MTF),
- organized trading facility (OTF) market (not established yet); and
- over-the-counter (OTC) market.

In terms of the Law, a public company is an issuer that meets at least one of the following conditions:

- it has successfully completed a public offering of securities in accordance with the prospectus approved by the SEC, or
- its securities are admitted to trading on a regulated market, MTF or OTF in Serbia.

Generally, a public company needs to file an application to admit its securities to trading on a regulated market. However, if:

- securities do not meet the listing standards of the regulated market; they may be admitted to trading on a non-listed segment of the regulated market.
- securities do not meet the requirements for admission to a non-listed segment of the regulated market either, they may be admitted to trading on the MTF.

It should be noted that only investment companies having a license from the SEC may trade on a regulated market or MTF – other persons may trade on these markets only through such investment companies.

Also, only investment firms licensed by the SEC are entitled to intermediate transactions in an OTC market. The SEC exercises supervision over the OTC market by supervising investment companies engaged in transactions regarding the financial instruments on the OTC market.

Securities included in one of the market segments, cannot be traded on another market segment of the regulated market or MTF.

3. Key Listing Requirements (ECM and DCM)

Currently, the only existing regulated market and MTF in Serbia are organized by BELEX. More specifically, trading on BELEX is structured in the following manner:

- regulated market, consisting of:
- listed segment, consisting of:
  - Prime Listing;
  - SMart Listing.
- non-listed segment – Open Market,
- multilateral trading facility.

Since the start of 2023, the (previous) additional type of listing – Standard Listing, has been deleted and all of the securities listed there were transferred to Prime Listing.

It is worth noting that short-term debt securities are not traded as a part of the BELEX-listed segment.

The criteria for the listed segment are given as follows:

- Prime listing
- minimum three years of business operations;
- published or adopted annual financial report for three business years preceding the listing application, under which there is;

i. positive auditor's opinion in the business year preceding the submission (or in the relevant extraordinary financial report);

ii. achieved a net profit in the business year preceding the submission (or in the relevant extraordinary financial report). There are certain exceptions to these requirements (e.g., i. and ii. are not applicable for the issuer of long-term debt securities));

- EUR 3 million minimal capital;
- issuer's webpage with both the Serbian and English versions;
- with respect to shares (and depository receipts):

i. dividends per preference shares have been paid in accordance with the decision on issuance of those dividends if issued;

ii. free float:

1) 25% of total shares issued in the free float, excluding **(a)** the shares of individuals who own 5% or more of the total shares (this does not relate to certain shares, such as shares owned by investment funds), **(b)** shares owned by international organizations, and **(c)** shares owned by the Republic of Serbia and state-owned organizations; or alternatively

2) free floated shares in the minimum capital of EUR 1 million (owned by at least 150 shareholders), or

3) free floated shares owned by at least 300 shareholders;

- with respect to long-term debt securities:
  - emission value: at least EUR 1 million;
  - the issuer's account has not been blocked in the last 180 days.
- SMart Listing
- minimum three years of business operations (or less under certain specific circumstances prescribed by the Law);
- published or adopted annual financial report for three business years preceding the submission;
- unqualified or qualified auditor's opinion in the business year preceding the submission (or in the relevant extraordinary financial report);
- EUR 1 million minimal capital (in certain cases, EUR 500,000);
- issuer's webpage with both the Serbian and English versions;
- free float:

i. 25% of total shares issued in the free float, excluding **(a)** the shares of individuals who own 5% or more of the total shares (this does not relate to certain shares, such as shares owned by investment funds), **(b)** shares owned by international organizations, and **(c)** shares owned by Republic of Serbia and state-owned organizations; or alternatively

ii. shares in the free float in the amount of EUR 150,000, in certain cases.

Only shares and respective depository receipts can be listed on SMart Listing.

Securities that do not meet the requirements for inclusion on the requested listed segment of the regulated market, can be included on the alternatively requested listed segment or MTF (where cannot be included the securities of the companies under bankruptcy or liquidation) organized by BELEX. Exceptionally, BELEX can approve the inclusion of the above-mentioned securities in the requested prioritized segment of the regulated market if it assesses that the securities can be traded correctly, orderly, and efficiently taking into account available information and other relevant criteria such as minimum capital, number of free float shares, etc.

Non-listed segment – Open Market. BELEX prescribes the following criteria for the Open Market:

- there is no initiated bankruptcy or liquidation process over the issuer;
- with respect to the shares or depository receipts: **(i)** minimum capital in the amount EUR 300,000, or alternatively **(b)** 15% free float shares;
- with respect to the debt securities, the minimum value of the emission – EUR 200,000.

4. Prospectus Disclosure

Any public offering of securities in Serbia must be made with prior publication of a prospectus (the Law provides, though, certain exemptions). In a similar manner, prior publishing of the valid prospectus is required before admission of securities to trading on a regulated market or MTF (with also certain exceptions provided under the Law). It should be noted that the new Law and appropriate new bylaws include a more detailed regulation on the prospectus and publishing information relevant to interested investors, which enables greater transparency, reduction of systemic risk on the capital market, as well as increasing trust in securities and contributing to the development of the capital market.

What sometimes makes confusion is a rather wide definition of a public offering given by the Law, under which a public offer is any notice given in any form, giving sufficient informa-

tion on the offer and securities, so that the recipient can decide whether to buy securities. Due to such a definition, even an offering to one person might be regarded in certain situations as a public offer.

Exclusions

There is a general rule that provisions of the Law regarding public offering are not applicable for securities whose total value is less than EUR 1 million, except in the case of publication of a voluntary prospectus.

Furthermore, publishing a prospectus in case of a public offer is not required in case of:

1) an offer addressed to qualified investors exclusively;

2) an offer addressed to not more than 150 natural or legal persons in Serbia, other than qualified investors;

3) an offer addressed to investors who will acquire securities for a total consideration of at least EUR 100,000, per investor, for each separate offer;

4) an offer of securities where the nominal value of each security amounts to at least EUR 100,000;

5) shares issued in substitution for shares of the same class already issued, if the issuing of such new shares does not involve any increase company's share capital;

6) securities offered in connection with a takeover bid by means of an exchange offer;

7) securities offered, allotted, or to be allotted in connection with a merger of the companies;

8) dividends paid to exist shareholders in shares of the same class as the shares in respect of which those dividends are paid;

9) securities offered, or to be offered/vested by an issuer or by its affiliated company, to existing or former members of management or employees.

10) non-proprietary securities that are continuously or periodically issued by credit institutions, if the total fee for the securities offered in Serbia is less than EUR 75,000,000, per credit institution, and which is calculated for a period of 12 months, provided that these securities:

- do not represent subordinated obligations, nor are they convertible or replaceable; and
- do not give the right to subscribe or acquire other types of securities that are not related to derivative instruments.

Apart from the above exemptions, the Law prescribes certain other exemptions when it comes to the admission of securities to a regulated market or MTF, such as the admission of shares representing less than 20% of the total number of shares of the same class already admitted to trading and similar.

It should be noted that prospectus-related duties prescribed under the Law are not related to certain specific categories (such as UCITS funds or non-proprietary securities issued by the Republic of Serbia).

Prospectus

The prospectus is the key disclosure document used to offer financial instruments.

The prospectus needs to contain all information which, bearing in mind the particular nature of the issuer and respective securities, are necessary to enable investors to make an objective assessment of the assets and liabilities, profit and losses, financial position, and potential business results of the issuer and all guarantors, rights attached to securities and reasons for issuance and its impact on the issuer. There is numerous additional information that the prospectus should contain depending on the type of security and issuer.

In any case, the information contained in the prospectus needs to be in a concise and comprehensible form in order to enable a simple analysis.

The prospectus can be prepared as one document (single prospectus) or as several separate documents (split prospectus) and generally, each prospectus should have a summary prospectus as well.

The issuers can omit information from a prospectus in certain circumstances where the SEC may authorize the disclosure of such information would be:

- contrary to the public interest;
- seriously detrimental to the issuer (provided that the omission would not be likely to mislead the public); or
- the information is of minor importance in the specific situation and would not influence the assessment of the financial position and prospects of the issuer.

Certain information may be incorporated in the prospectus by reference to one or more previously or simultaneously published documents (provided that this information is the latest available to the issuer). In such case, a prospectus shall contain a list of all used cross references.

5. Prospectus Approval Process

The SEC is a competent authority in Serbia for reviewing and approving prospectuses.

An issuer/offeror may submit the application for approval of the **(i)** publication of the prospectus for a public offering of securities and **(ii)** prospectus for admission of securities to a regulated market or MTF. Along with this application, the following should be submitted:

- decision on issuance of securities and/or admission to trading, including any additional information required to be filed with the respective regulated market or MTF;
- copies of the prospectus;

- articles of association and memorandum of association;
- where applicable, approval from a competent body, if the applicable law prescribes that the issuance of securities shall be allowed only with the previous approval of that body;
- a document containing evidence that the conditions for admission to trading have been met, following the approval of the prospectus for admission of securities to trading on a regulated market or MTF;
- other documentation required by the SEC.

The SEC will issue a decision on approval of the publication of a prospectus within 10 business days following the satisfactory receipt of the application. This deadline becomes 20 business days if the public offering involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market or MTF (in certain specific cases, these deadlines can be even shorter).

In case of irregularities/incompleteness of the prospectus, the SEC will notify the issuer requesting that the documents are corrected/supplemented, within ten business days of the submission of the application.

Publication of the prospectus

An issuer/offeror needs to publish its prospectus within a reasonable deadline of receipt of the SEC's approval (and at the latest at the beginning of the public offer or the admission to trading on the regulated market or MTF).

If the initial public offering includes a class of shares that is admitted to trading on a regulated market for the first time, the prospectus should be available to the public at least six business days before the offer expires.

The prospectus can be published in an electronic form in a special, easily available part of a website (which does not need registration to access), through one of the following websites:

- on the website of an issuer, bidder, or person requesting admission in trading on the regulated market website;
- on the website of the financial intermediaries providing the services and performing activities in connection with the placing or selling of the securities;
- on the website of the regulated market or MTF.

Also, the Law prescribes certain obligations in relation to the advertisement activities (e.g., the advertisement must be clearly recognizable as such, the information contained in an advertisement cannot be inaccurate or misleading, the information contained in an advertisement needs to be consistent with the information contained in the prospectus, etc).

The deadline for the start of the subscription and payment for securities should commence no later than 15 business days of the receipt of approval on the prospectus' publication and the deadline for subscription and payment of securities cannot exceed three months following the day indicated in the prospectus (the SEC may extend this deadline by 45 business days).

Supplements to the prospectus

The issuer/offeror needs to (promptly) create a supplement to the prospectus and submit it to the SEC for approval, if a significant new factor, material mistake, or inaccuracy has arisen relating to the information included in the prospectus which can affect the assessment of securities, in case that such factor or mistake/inaccuracy arises/is noted between the **(i)** prospectus' approval and **(ii)** final closing of the public offer or the moment of admission to the securities market.

Such a supplement needs to be approved in the same way as the initial prospectus within a maximum of five working days of the application receipt and published on the day following the approval (i.e., in the same manner as the initial prospectus). The summary prospectus needs also to be supplemented (if necessary, bearing in mind the new information).

Investors who have already agreed to purchase or subscribe for the securities before the supplement is published will have the right, exercisable within the time period designated in the supplement (which cannot be shorter than two working days after the supplement's publication), to withdraw their acceptances (provided that the fact, due to which the supplement is made, has occurred/was noticed before the offer expiration or transfer of securities).

Validity

The prospectus will be valid for 12 months after its publication, provided that the prospectus is supplemented in accordance with the above-stated requirements for supplementation.

Foreign issuers

While the Law allows for foreign issuers to list foreign securities in Serbia, rules are rather technical and complicated, and, adding the fact that the Serbian capital market is still under development, we still did not see the listing of any foreign securities in Serbia.

The issuer headquartered outside of Serbia needs to file with the SEC an application for the approval of a public offer prospectus or admission to trading of its securities on a regulated market or MTF in Serbia. Please note that all foreign documents provided to any Serbian authority should be translated into the Serbian language.

Please note that any matter involving foreign issuers should be observed also from the perspective of Serbia's Forex regulation.

6. Timeline, process with the stock exchange

Listed segment

Under the BELEX rules, the issuer, in general, needs to submit

the request to BELEX with the following documents/information:

- information on the issuer;
- prospectus approved by the SEC (or with relevant statements in case of exceptions to the requirement for publication of the prospectus);
- corporate documentation (such as a memorandum of association, articles of association, excerpt, decisions of the issuer's competent bodies, etc.);
- most relevant company excerpt if the issuer is a foreign company;
- relevant financial statements;
- information on paid dividends;
- written statements that (i) there are no proceedings initiated against the company by SEC and (ii) there are competent people in charge of the activities regarding the regulated market;
- adopted Code of Corporate Management (CCM) or a statement that the CCM of another company is adopted;
- report on public offer (if there was a prior public offer);
- guarantee, if the emission of securities is guaranteed;
- relevant agreements (e.g., with underwriter, investment company, etc.);
- other documents/statements required by BELEX.

BELEX will adopt the listing request within 15 business days of the receipt of the complete request – in certain cases, this deadline is five business days (when the subject of that request is a long-term debt security). However, in general, if the request refers to the issuer who has not (recently) initiated a public offer or if respective shares were not admitted to the regulated market, the BELEX deadline to adopt the listing request is 30 days.

Also, the issuer will need to enter into an agreement with BELEX.

Non-listed segment – Open Market

In case of admission to the Open Market, (i) the request should contain similar (and a smaller number of) documents comparing to admission to the BELEX listed segment and (ii) the timeline for the admission should be the same as for the BELEX listed segment.

MTF

In case securities and issuers do not fulfill the criteria for admission to the segments of the ed market, such securities can be admitted to the MTF, with the exception that no bankruptcy or liquidation proceedings have been initiated against the company.

7. Corporate Governance (Corporate governance code/rules (INED, board and supervisory composition, committees) and any other ESG considerations)

Public companies may be organized as either one-tier or two-tier governance systems.

7.1. One-tier system

Besides the shareholders' assembly, public companies need to have a board of directors that consists of at least three directors. On the other hand, private companies may have one or two directors. In line with the *Companies Law*, the directors may not be persons who are either:

(a) performing the function of a director or a supervisory board member in more than five companies;

(b) sentenced for a crime against the economy, within five years, as of the day of such ruling becoming final, not including the time spent serving a prison sentence; or

(c) imposed a prohibition of conduct of business which constitutes the prevailing business activity of the company, for the duration of such prohibition.

The directors can be:

- Executive directors who are deemed as statutory representatives of the company and oversee day-to-day business activities and management of the company. One of the executive directors may be appointed as a general director (CEO) who coordinates the work of executive directors and organizes the company's business;

and

- Non-executive directors who supervise the work of the executive directors and propose and supervise the implementation of the business strategy of the company. Non-executive directors cannot be employed by the company. The number of non-executive directors of public companies needs to exceed the number of its executive directors, whereas at least one of the non-executive directors needs to be the independent non-executive director (INED).

The INED needs to fulfill the following criteria in each moment within their mandate, i.e., the INED may be a person who is not affiliated with the directors and which, during the previous two years:

(a) has not been an executive director, employed in the company, or in some other company affiliated with the company;

(b) has not owned more than 20% of the share capital, and has not been employed or otherwise hired by some other company that has generated more than 20% of its annual revenues over that period;

(c) has not received payments from the company or its affiliates nor has claimed from them the amounts whose total value

exceeds 20% of its annual revenues over that period;

(d) has not owned more than 20% of the share capital of a company affiliate; or

(e) has not been engaged in the conduct of an audit of the company's financial statements.

By default, in the case of public companies the board of directors is required to convene and hold at least four regular meetings annually.

Also, public companies are required to have an audit commission in charge of auditing policies, standards, and matters within the company (including in the case of the two-tier system).

7.2. Two-tier system

The two-tier system takes the division of functions and authorities between the executive and the non-executive directors to a further extent, by introducing a supervisory board as a separate body (along with a shareholders assembly). The operational governance is divided into two bodies as follows:

- The executive board of a public company consists of at least three executive directors, appointed by the supervisory board. The functions of the executive board parallel the ones within the one-tier system, i.e., they are deemed as statutory representatives of the company and oversee day-to-day business activities and management of the company. The requirements for executive board members' appointments are the same ones applicable to the appointment of executive directors within the one-tier system. One of the executive directors may also be appointed to the position of the general director (CEO);

and

- The supervisory board consists of three or more uneven number of members appointed by the shareholders' assembly, and they may not be (i) executive directors or procurators of the company and (ii) employed in the company.

The supervisory board would be authorized to supervise the work of the executive board, propose the business strategy, and monitor its execution. Supervisory board members need to fulfill conditions for the appointment of directors within the one-tier system (stated in 7.2.1). Symmetrically to the INED within the one-tier system, public companies need to have an independent supervisory board member who would need to fall under the scope of the same requirements applicable to the INED.

7.3. Code Corporate Management

Public companies conducting trade at BELEX need to either **(i)** adopt a Code of Corporate Management (CCM), or **(ii)** issue a statement on the application of other company's CCM.

It should be noted that the latest amendments to the Companies Law introduced a duty for a public company to adopt a remuneration policy for its directors and supervisory board members.

8. Ongoing Reporting Obligations (Life as a Public Company)

8.1. Annual and interim financials

The issuer has the following obligations in relation to the annual and interim financials:

Annual reports

A public company needs to **(i)** prepare and make its annual report publicly available, and **(ii)** file it to the SEC and the regulated market or MTF, if its securities are admitted to trading. This needs to be done at the latest four months after the end of each business year (and needs to ensure that the annual financial report remains publicly available for at least ten years after the publishing date).

The annual report contains:

- annual financial statements with auditor's report;
- annual report of operations of the company;
- responsibility statements made by persons responsible for the making of the annual report;
- other important information (e.g., capital structure, direct and indirect shareholdings, restriction on transfer of securities, information about shareholders agreements, certain change of control agreements, etc.).

A public company needs also to publish the complete decision on the adoption of the annual report, along with the decision on the distribution of profit or coverage of the loss, if these decisions are not an integral part of the annual report.

Also, in the case of acquisitions of treasury shares, the annual report should contain information on such acquisitions.

Semi-annual report

A public company needs to prepare semi-annual reports, as soon as possible and at the latest within three months following the completion of the first six-month period of the business year, make them publicly available, and file it to the SEC and regulated market (and needs to ensure that this report remains publicly available for at least ten years after the publishing date).

The semi-annual report should contain:

- condensed financial statements;
- condensed management's report on business operations;
- a statement made by the persons responsible for the preparation of the semi-annual report;
- auditor's report (if any).

Quarterly reports

A public company whose securities are listed on the listing seg-

ment of the regulated market is required to prepare quarterly reports, make them publicly available, and file them to the SEC and regulated market, within one month following the end of each quarter (and needs to ensure that this report remains publicly available for at least ten years after the publishing date). These reports should contain information necessary for the semi-annual reports.

Exceptions

Duties regarding the annual, semi-annual, quarterly reports and annual information on published information, do not apply to certain types of public companies (e.g., SMEs do not have a duty to prepare quarterly reports).

8.2. Ad hoc disclosures

The law provides for several ad hoc disclosure which needs to be made:

- Additional information. The public company needs to inform the SEC and regulated market or MTF of any change regarding its securities (depending on the type of securities). Also, BELEX may require additional information to be provided.

- Reporting on significant changes in shareholding.

Generally, all persons must make appropriate disclosures once they acquire significant shareholdings in public companies (i.e., acquisition of shares or relevant financial instruments).

Once such persons notify the public company about the change in significant shareholding, the public company must disclose such change within three working days as of the receipt of the notice.

The public company needs to, in case there is a change in the number of voting shares, at the end of each calendar month, for the purpose of calculating the relevant shareholding thresholds, disclose to the public the information about the changes and the new total number of voting rights and the value of the share capital.

- Treasury shares. If a public company acquires or disposes of its own voting shares, it must make public the proportion of its own shares, as soon as possible, but not later than four trading days following such acquisition or disposal of the voting rights.

- Other information. The public company needs to ensure that the information necessary to enable shareholders to exercise their rights are available.

- Inside information. The public company needs to inform the public as soon as possible of inside information which directly concerns the issuer.

- Foreign issuers. To a certain extent, the foreign issuer is required to comply with disclosure requirements provided by the Law.

The information in this document does not constitute legal advice on any particular matter and is provided for general informational purposes only.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

a. Biggest ECM and DCM transactions over the past 2-3 years

Over the last several years, the Slovak regulated market has been at the lowest levels within the EU from the viewpoint of liquidity, depth, volumes, and market capitalization, and has ranked among extremely illiquid markets.

From a perspective of achieved financial volume, the year 2021's most prominent share issues on the market of listed securities were Vseobecna uverova banka (EUR 5.72 million; transactions), Tatry Mountain Resorts (EUR 1.2 million; 499 transactions), and Biotika (EUR 0.44 million; 130 transactions)

Among the issues of debt securities of the private sector, the most notable were issues of AUCTOR 5.00/2025 (EUR 25,651 million; 1,148 transactions), D Alpha Quest 5/2025 (EUR 21,588 million; 170 transactions), and JOJ Media House 2021 (EUR 16,567 million. 375 transactions).

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

At present, the Bratislava Stock Exchange, a.s. (Bratislava Stock Exchange/stock exchange) is the sole operator of a regulated market of securities in the Slovak Republic.

2.2. Non-regulated market

Bratislava Stock Exchange also operates a multilateral trading facility (MTF) under its rules of the multilateral trading facility for the purpose of connecting, or enabling to connect interests of various third parties' entities (*zaujmy viacerych stran*) to buy and sell securities within the system and in compliance with fixed rules; this results in the conclusion of securities transaction on the MTF.

3. Key Listing Requirements

3.1. ECM

Shares can be admitted to the listed market of the Bratislava Stock Exchange only if the shares and their issuer meet the requirements according to the *Stock Exchange Act*, separate regulations (e.g., Prospectus Regulation), and the *Stock Exchange Rules for Shares Admission to the Listed Market*.

The non-exhaustive list of key listing requirements includes the following requirements:

The shares can be listed on the stock exchange only if they are financial instruments pursuant to *Slovak Act on Securities*; are fungible (*zastupitelne*); their transferability is not limited; are book-entry securities; are issued in conformity with the law of the country of their issue; their issuer meets local law requirements for the issuance; the stock exchange is not aware of any facts that(in the case of acceptance of the security for trading on a regulated market)could lead to damage to investors or to a serious threat to their interests, or to a threat to an important public interest; the prospectus has been approved and published unless the law provides otherwise; the issue price of shares has been paid in full; the subscription of shares based on a public offering has been successfully completed; the issuer has been assigned a valid LEI. The shares can be admitted to the stock exchange main market only if the issuer has compiled and published the annual financial statements at least for three years immediately preceding the year in which the application is submitted; multiple of the share price (or the expected share price) and the number of shares, the acceptance of which is requested, is at least EUR 1 million; if it is not possible to estimate the expected exchange share price, this condition applies to the issuer's own capital; the shares representing at least 25% of the total nominal value of the shares, for which the application for admission is submitted, are distributed among the public; the minimum market capitalization of the issue is met (i.e., the minimum market capitalization of the issue for the main market is EUR 15 million and for the parallel market EUR 3 million) and in the last three years prior to the year in which the application for admission of share is submitted, the issuer has not entered into liquidation, its property has not been subject to bankruptcy proceeding or, respectively, restructuring has not been approved, or a bankruptcy petition has not been rejected due to insufficient property of the issuer.

3.2. DCM

The listing requirements for bonds are very similar to listing requirements for shares save for minor differences such as the total nominal value of the bond issue, which should be at least EUR 5 million for the main market or EUR 1 million for the parallel market.

Convertible bonds can be admitted to the listed market only if the issuer's shares, for which the convertible bonds are to be exchanged, have already been admitted to the stock exchange's listed market or if these shares will be admitted together with the convertible bonds.

Securities can be included in the MTF list only if they meet the listing requirements as shares and bonds above except for the obligation to have the Prospectus approved and published.

4. Prospectus Disclosure

4.1. Regulatory regimes (Prospectus Regulation or similar) – equity and debt

In accordance with the Prospectus *Regulation (EU) 2017/1129* (Prospectus Regulation), which lists requirements for drawing up, approval, and distribution of the prospectus, an approved prospectus is required to be published when securities are offered to the public or admitted to trading on a regulated

market in Slovakia save for applicable prospectus exemptions set up in the Prospectus Regulation. Further requirements as regards the format, content, scrutiny and approval of the prospectus are governed by *Regulation (EU) 2019/980*, which supplements the Prospectus Regulation.

The leading pieces of Slovak legislation governing securities offerings, including the regulation of the prospectus, are *Act No. 566/2001 Coll. on securities and investment services and on amendments and supplements of certain laws as amended* (Securities Act) and the *Act No. 429/2002 Coll. on the Stock Exchange as amended* (Stock Exchange Act).

The National Bank of Slovakia is the only competent authority for the administration and execution of authorizations in relation to the prospectus.

4.3. Local market practice

Please see our answer above.

4.4. Language of the prospectus for local and international offerings

If the offer of securities to the public is made or admission to trading is sought only in Slovakia, the prospectus should be issued in the Slovak language. Otherwise, the prospectus should be issued either in a language accepted by the competent authorities of those Member States, where the offer of securities to the public or admission to trading is sought, or in a language customary in the international finance environment.

5. Prospectus Approval Process

5.1. Competent Regulator

The National Bank of Slovakia (NBS) is the only competent authority for regulation and oversight over the issuance of the prospectus.

5.2. Timeline, number of draft submissions, review, and approval process

NBS approves the prospectuses of securities within the time limits specified in the Prospectus Regulation as follows:

(a) the prospectus, documents forming the prospectus (including Registration document or Universal registration document) within 10 working days of the submission of the draft prospectus for its approval; in case of a frequent issuer, the time limit for the prospectus consisting of separate documents is reduced to five working days;

(b) a supplement to the prospectus within five working days of the submission of the application for approval;

(c) a prospectus where the public offer involves securities issued by an issuer who has no securities admitted to trading on a regulated market and who has not yet publicly offered securities (first draft only) within 20 working days of the request for approval;

Due to the short deadlines for the prospectus approval and the large scope of the documents which should be approved by NBS, the NBS prefers unofficial consultations over the preparation and content of the prospectus in the form of an unofficial prospectus assessment through email communication;

All drafts of a prospectus shall be submitted to the NBS in searchable electronic format via electronic means.

Approved prospectus shall be made available to the public by the issuer, the offeror, or the person asking for admission to trading on a regulated market reasonably in advance, and at the latest at the beginning of, the offer to the public or the admission for the trading of the securities involved.

6. Listing Process

6.1. Timeline, process with the stock exchange

Securities can be admitted to the listed market or MTF based on a written application for admission with Bratislava Stock Exchange and the proceedings shall start on the day of the application delivery to the Bratislava Stock Exchange. An issuer of shares or a Stock Exchange member authorized by the issuer can apply for admission of securities. The application for admission shall be amongst other things enclosed in particular with a valid prospectus, the supervisory authority's decision approving the prospectus, a document proving that the approved prospectus has been made publicly accessible, the articles of association, the deed of association and the foundation agreement or the foundation charter of the issuer invalid and current wording, the issuer's transcript from the business register if the applicant is not the issuer and a decision of the competent body of the issuer on the issue of shares.

The application and certain enclosures such as the supervisory authority's decision approving the prospectus, article of association and other corporate documents, the issuer's transcript from the business register, and the power of attorney should be submitted to the Bratislava Stock Exchange as originals or officially authenticated copies. Other enclosures can be verified by the Bratislava Stock Exchange based on the submitted original documents.

If the conditions for the admission of securities are met, the Bratislava Stock Exchange shall decide on an application within 60 days from its submission or supplementation. The Bratislava Stock Exchange may prolong the decision-making period to six months from the submission or supplementation of the application if the applicant has applied for admission of securities also in other listed markets in the EU Member States.

The application may be submitted in Slovak, Czech, or English language. The enclosures are usually submitted in Slovak, Czech language or English language. If an enclosure is made in a different language, the Bratislava Stock Exchange may de-

cide that an officially authenticated translation into the Slovak, Czech, or English language is submitted along with the given enclosure.

7. Corporate Governance

7.1. Corporate governance code/rules (INED, board, and supervisory composition, committees)

As of January 1, 2012, the Bratislava Stock Exchange decided to leave out from the Stock Exchange Rules the issuers' obligation to accede solely to the Corporate Governance Code created by the Central European Corporate Governance Association (CECGA) and enable issuers to accede to and abide by, any accepted Corporate Governance Code in compliance with the legislation in effect. Those issuers who acceded to the Corporate Governance Code for Slovakia can continue to follow it and new issuers are also allowed to sign up. The issuers, who decide to adhere to the *Corporate Governance Code for Slovakia* (Code) are only obligated to prepare a statement according to the Code and for this purpose, they can use the template *Statement of Compliance with the Principles of the Corporate Governance Code for Slovakia*.

Directive 2004/109/EC of the European Parliament and the Council introduced a new format for reporting annual financial reports, namely the European Single Electronic Format ESEF. An issuer whose securities are accepted for trading on the BCPB-regulated market is obliged to prepare and publish its annual financial report for 2021 in the new reporting format, which fully meets the reporting requirements of BCPB.

7.2. Any other ESG considerations

N/A

8. Documentation and Other Process Matters

a. Over-allotment (greenshoe or brownshoe structure)

Issuers with financial instruments listed on a regulated market must comply with the rules set out in the *EU-Market Abuse Regulation* (MAR) and *Delegated Regulation (EU) No. 2016/1052*, which grant under certain conditions exemptions from the prohibitions of insider dealing and market manipulation for buy-back programs and stabilization measures. The MAR in Article 5 provides the conditions under which buy-back programs and stabilization may be carried out, without conflicting with the rules on the prohibition of market manipulation. Part of these conditions are obligations to disclose the full details of the program before the start of trading and to report transactions to the competent authorities. The *Regulation (EU) 2019/980* sets out the detailed information of any stabilization, which issuers must disclose in the prospectus. Both for buy-back programs and for stabilization measures each transaction shall be reported to the NBS no later than by the end of the seventh daily market session following the date of the execution.

b. Stock lending agreement – whether it is used and whether there are any issues (tax, takeover directive)

The Securities Act recognizes the contract on the loan of security, where the lender undertakes to transfer to the borrower a certain number of fungible securities, and the borrower agrees to transfer to the creditor the same number of fungible securities after the completion of an agreed period. The borrower also undertakes to pay a fee, if agreed. Instead of a financial fee, it may be agreed that the number of fungible securities returned will be greater than the number that the creditor lent to the borrower. A contract on the loan of security must be made in writing. For a contract to borrow securities to be valid, it must specify the class, number, and, if assigned, the ISIN number of the securities transferred.

c. Stabilization – whether allowed and on what terms (MAR, local regimes)

See Section 8.a.

9. Ongoing Reporting Obligations (Life as a Public Company)

The issuers are obligated to meet a number of information duties. The fundamental and most important obligations for issuers after admission of their securities to the regulated market result primarily from the MAR and the *Directive 2013/50/EU* (Transparency Directive), which has been transposed into the Slovak Republic's legislation, primarily into the Securities Act and the Stock Exchange Act.

Pursuant to the Stock Exchange Act an issuer of shares or debt shall publish its annual financial report at the latest four months after the end of each financial year.

9.1. Ad hoc disclosures

The MAR obliges all issuers of financial instruments to notify the market of inside information so that other market participants are not put at a disadvantage to company insiders. The ad hoc disclosure requirement applies to all issuers who have requested or received an admission of their financial instruments to trading on a regulated market or a multilateral trading facility (MTF) in Slovakia.

The issuers shall notify all market participants rapidly and comprehensively of any inside information so that investors can make well-founded decisions and are not put at a disadvantage to insiders. For this reason, the issuers have a legal obligation to disclose to the public immediately any facts about their company that have the potential to influence the price of the financial instrument and directly concern the issuer (Article 17(1) of the MAR).

Amongst other reporting obligations, the issuer is, inter alia, obliged to disclose information about changes in the issuer's fi-

nancial situation or other facts during the year that can cause a substantial change in the price of shares or restrict the issuer's ability to fulfill the obligations resulting from the share issue, or significantly affect the issuer's business activity, the information about convening ordinary and extraordinary general meetings, including their agenda, the information about personnel changes of the members of a statutory body, members of supervisory bodies and key managers of the issuer, the information about admission of the issuer's securities to trading on another regulated market and the information about any change in the rights attached to the various types of shares.

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1. Market Overview

Equity capital markets and debt capital markets are somewhat underdeveloped in Slovenia compared to their Western EU counterparts. The Ljubljana Stock Exchange, which celebrated 30 years of existence in 2019, is the main market for the admission of equity, debt, and other instruments. However, the liquidity of the market is on the weaker side, even though a few new liquidity providers were added in the last few years. In Slovenia SMEs typically resort to classic debt financing through banks and very rarely turn to capital markets to seek funding. Therefore, companies that participate in the Ljubljana Stock Exchange through the admission of equity, debt, or other instruments are predominantly older, larger companies.

The last major IPO on the Ljubljana stock exchange was the listing of the stock of Nova Ljubljanska Banka, the largest Slovenian bank, in 2018 for a total amount of EUR 1.03 billion. In 2022, Mercator, one of the largest retailers in Slovenia, went private and was delisted from the Ljubljana stock exchange following the acquisition and squeeze-out of a minority shareholder by Fortenova Group. This follows the continuous pattern of delisting of companies from the Ljubljana Stock Exchange in recent years.

The majority of transactions on the Ljubljana stock exchange in 2021 involved shares (transactions with shares amounted to slightly more than EUR 379 million) followed by transactions with bonds (transactions with bonds amounted to slightly more than EUR 0.2 million). The average daily number of regular transactions was 129,60 and the average value of each regular transaction amounted to EUR 9,775.50. The Mercator shares had the highest profitability in 2021 (163.16 %), however, the highest volume of transactions was performed with the shares of Slovenian pharmaceutical company Krka, which also generated the highest average daily traffic in 2021. One of the most notable events was the accession of the Cinkarna Celje shares to the Prime market and the listing of EFTs on the Ljubljana Stock Exchange. In general, the Slovenian stock index SBITOP ended the year 2021 among the best-performing markets in the world, gaining 39.8% and ending the year with the highest value on December 29, 2021. However, the total number of transactions has dropped by 23.6% compared to a year before.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

The Ljubljana Stock Exchange is the only stock exchange in the Republic of Slovenia. The equity market is divided into the Prime market and the Standard market. The Prime market is the elite part of the equity market, intended for companies that stand out for their liquidity, size, and transparency of operations. It is designed to increase the reputation of the best Slovenian companies in front of international investors. Companies that are listed on the Prime market have to fulfill additional reporting standards and their stocks usually have higher liquidity than those in other segments of the market. Both markets are regarded as "regulated markets" under the *EU Directive on Markets in Financial Instruments* (*No. 2014/65/EC*) (MiFID II) and the *Slovenian Market in Financial Instruments Act* (*ZTFI-1*).

Stocks that are listed on the Standard market fulfill the basic conditions for listing on the stock exchange but are not yet mature enough for a more advanced trading segment. Companies whose stocks are listed on the Standard market meet the disclosure standards pursuant to Slovene legislation.

The Bonds market of the Ljubljana Stock Exchange is structured into Bonds and Money Market Instruments. Money Market Instruments are further subdivided into treasury bills and commercial papers. An additional market is the Structured Products Market, which is subdivided into Closed-end fund shares, Fund market, Certificates, Warrants, Rights, and other products. For listings on the Bonds market, similar criteria as for the stock exchanges is applicable. Nevertheless, for open-end and closed-end funds, additional criteria apply to regulating asset management companies.

2.2. Non-regulated market

The Ljubljana Stock Exchange also operates SI ENTER, a multilateral trading facility (MTF). The purpose of SI ENTER is to enable trading in securities that are not listed on the regulated market with the purpose of enhancing transparency and achieving a better price formation than in the OTC market. SI ENTER also serves the purpose of listing securities of start-ups and SMEs, that do not meet the requirements or lack sufficient funding to be listed on the regulated market (See section 2.1.). SI ENTER market provides for less transparency compared to the regulated market (described above under point 2.1). The transparency requirements for the SI ENTER as MTF are regulated with the applicable legislation, i.e., EU Markets in Financial Instruments Regulation (*No. 600/2014*) (MiFIR) as well as the SI ENTER rules.

SI ENTER is subdivided into three segments: **(i)** the ADVANCE Segment, **(ii)** the BASIC Segment, and **(iii)** the PROGRESS Segment. The main difference between the ADVANCE and PROGRESS Segments on one side and the BASIC Segment on the other side is that shares listed in the BASIC Segment are not listed upon the request of the issuer but as a consequence of the interest of traders. Accordingly, there are no additional reporting and disclosure obligations imposed on the issuers in the BASIC Segment, therefore transparency level is low, and investing in BASIC Segment is associated with higher risk. The main difference between ADVANCE and PROGRESS Segments is that PROGRESS Segment requires additional reporting and disclosures and is

associated with higher costs, therefore it is more appropriate for more mature issuers that are preparing to be listed at one of the "regulated markets" (See section 2.1.). The three SI ENTER Segments are subdivided as follows:

- ADVANCE Segment, which includes:
  - ADVANCE SHARES – greater transparency of operations compared to BASIC Segment, meant for shares, share-equivalent securities representing a share in membership rights of legal persons and GDRs related to shares or share equivalent securities, listed on the basis of the issuer application
  - ADVANCE BONDS – meant for bonds, other types of securities containing monetary obligation of the issuer, and GDRs related to these securities, listed on the basis of the issuer application
  - ADVANCE COMMERCIAL PAPERS – meant for commercial papers, listed on the basis of the issuer application
- BASIC Segments. The purpose of the BASIC Segment is to allow traders to trade with shares for which trading interest among traders exists, to avoid OTC trading with such shares. As the shares are not listed on the basis of an application of the issuer, the issuer does not have any additional obligations or costs associated with the listing on the BASIC segment. The only sub-segment of the BASIC Segment is:
  - SHARES SLOVENIA – lower transparency of operations, only issuers with registered offices in the Republic of Slovenia, listed on the basis of an invitation of the exchange.
- PROGRESS Segment, which is a segment shared between Ljubljana Stock Exchange and Zagreb Stock Exchange. In comparison to the ADVANCE Segment, which is a segment of the Ljubljana Stock Exchange only, the PROGRESS segment requires additional reporting of companies and is associated with higher costs for the issuer (among other requirements, at the time of listing as well as for an additional two-year period the issuer has to have a contract concluded with one of the advisors officially registered with the Progress MTF). In this sense, the PROGRESS Segment is closer to the "regulated markets" (See section 2.1.). PROGRESS Segment is therefore advisable to issuers who are preparing to be listed with the "regulated markets." Currently, there are no Slovenian companies listed in the PROGRESS Segment. The PROGRESS Segments are sub-divided to:
  - PROGRESS SHARES – additional reporting and discloser requirements compared to ADVANCE Segment, meant for shares, share-equivalent securities representing a share in membership rights of legal persons and GDRs related to shares or share equivalent securities, listed on the basis of the issuer application
  - PROGRESS BONDS – additional reporting and discloser requirements compared to ADVANCE Segment, meant for bonds, other types of securities containing monetary obligation of the issuer, and GDRs related to these securities, listed on the basis of the issuer application
  - PROGRESS COMMERCIAL PAPERS – additional reporting and discloser requirements compared to ADVANCE Segment, meant for commercial papers, listed on the basis of the issuer application.

3. Key Listing Requirements

The listing process and listing requirements for listing equity and debt securities on Ljubljana Stock Exchange are regulated in the Stock Exchange Rules ("*Pravila borze*," the LJSE Rules).

3.1. ECM

As mentioned above, stocks can be listed and traded on Ljubljana Stock Exchange in two market sub-segments:

- Standard Market
- Prime Market

Listing requirements for Standard Market

For a company's shares to be listed on the Standard Market the following requirements shall be fulfilled (Articles 8 and 9 of the LJSE Rules):

- regarding the legal standing of the issuer:
  - established and operating under the law of the country of its establishment;
  - obtainment of LEI code;
- regarding the publication of the prospectus and other information pursuant to the ZTFI-1:
  - if publication of the prospectus is required; obtaining the Securities Market Agency (ATVP) decision on the approval of the prospectus; the prospectus needs to be submitted to the Ljubljana Stock Exchange before listing;
  - if publication of the prospectus is not required due to the application of the exceptions: notification to ATVP; such notification needs to be submitted to the Stock Exchange before listing;
- regarding transferability:
  - the shares listed need to be freely transferable;
- regarding share issuance and trade settlement mechanism:
  - the shares need to be validly issued and the requirements for reliable settlement of trades need to be fulfilled (this condition is fulfilled if the shares of the issuer established in Slovenia are issued as book-entry securities and entered in the central register).

The companies whose stocks are listed on the Ljubljana Stock Exchange need to fulfill the above-stated requirements throughout the trading of their shares on the Ljubljana Stock Exchange. Furthermore, companies shall also comply with

the LJSE Rules and other applicable regulations as well as decisions adopted by the Ljubljana Stock Exchange and its management.

Listing requirements for Prime Market

For the stocks to be listed on the Prime Market all the listing requirements for listing on the Standard Market stated above need to be fulfilled as well as the following additional requirements (Article 11 of the Rules):

- share class:
  - shares need to be issued as ordinary shares which give their holders one vote;
- quantitative criteria:
  - operation of the company for at least three years before listing;
  - audited annual reports for the past three financial years;
  - a minimum value of the capital shall be EUR 10 million or an amount in other currency, which is equal;
  - percentage of the shares held by the public: at least 25% (or less than 25%, provided that the Stock Exchange decides that the requirement is fulfilled if it assesses that due to a large number of shares of the same class and the volume of its sale to the public, the market will still function properly);
- disclosure requirements and publication of statements, whit which the issuer undertakes:
  - to disclose information and report also in accordance with International Financial Reporting Standards (IFRS);
  - to publish summaries of the public announcements both in Slovenian and English language;
  - to publish interim business information (quarterly reports or interim statements), the financial calendar, and the declarations of compliance with the Corporate Governance Code;
  - to strive to the best of the abilities to meet the best practices of disclosure, as stipulated by the Guidelines, published by the management of the Stock Exchange.

3.2. DCM

Debt securities trading on the Ljubljana Stock Exchange are bonds and money market instruments, such as treasury bills, commercial papers, and certificates of deposit in connection with the bonds (Article 6(3) of the LJSE Rules).

Bonds

According to Article 40 of the LJSE Rules, for listing the bonds on Ljubljana Stock Exchange, the same requirements need to be fulfilled as for listing stock on the Standard Market. Furthermore, the issuer or the person requesting the listing of the bonds on the Stock Exchange needs to comply with the obligation on the publication of the prospectus in accordance with ZTFI-1.

Money market instrument

Money market instruments (treasury bills and commercial papers) shall be listed on Ljubljana Stock Exchange provided that (Article 45 of the LJSE Rules):

- they are freely transferable;
- they are validly issued and the conditions for reliable settlement of trades are fulfilled;
- basic information regarding the money marker instrument is published; and
- an administrative fee is paid.

Other

According to the LJSE Rules, special provisions and listing requirements may apply for listing the securities of the issuers having their seat in other EU Member States and third countries.

4. Prospectus Disclosure

The prospectus is a key document that needs to be published when the securities are offered to the public or when the admission of securities on a regulated market situated or operating within a Member State is sought.

In Slovenia, matters concerning the preparation and content of the prospectus are primarily governed by the directly applicable *Regulation (EU) 2017/1129* of June 14, 2017 (Prospectus Regulation), the *Commission Delegated Regulation (EU) 2019/980* of March 14, 2019, concerning the format, content, scrutiny and approval of the prospectus, and the *Commission Delegated Regulation (EU) 2019/979* of March 14, 2019 concerning regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal.

Since Prospectus Regulation repealed the previously valid *Directive 2003/71* of November 4, 2003, on the prospectus to be published when securities are offered to the public or admitted to trading, the majority of the matters concerning the prospectus are now uniformly regulated on the European level. Only a minority of matters are therefore left to the individual Member States to regulate. In Slovenia, certain matters regarding the prospectus are thus still regulated in the ZTFI-1, however, no provisions apply to the content of the prospectus and disclosure requirements.

According to the Prospectus Regulation, the prospectus shall be written and presented in an easily analyzable, concise, and comprehensible form so that it enables the investors to make informed investment decisions. The information presented shall be sufficiently and objectively presented in a single document or separate documents. As a general rule, the prospectus

shall therefore include essential information, which allows the investors to make an informed assessment of the financial situation of the issuer or guarantor (the assets and liabilities, profits and losses, financial position, prospects), the rights attaching to the securities, reasons for the issuance as well as its impact on the issuer.

Article 16 of the Prospectus Regulation emphasizes the importance of disclosing the risk factors to ensure that investors make an informed assessment of such risks and thus take investment decisions with full knowledge of the facts. The risk factors included in the prospectus shall be limited to risks that are specific to the issuer and/or to the securities and which are material for taking an informed investment decision. The prospectus also needs to include an assessment of the materiality of the risk factors based on the probability of their occurrence and the expected magnitude of their negative impact. Risk factors shall be presented in a limited number of categories depending on their nature and shall be adequately described, explaining how they affect the issuer or the securities being offered or to be admitted to trading.

The Prospectus Regulation stipulates that the European Commission shall adopt delegated acts and further regulate the content of the prospectus. The Commission did so and issued *Commission Delegated Regulation 2019/980*, which in detail provides the information that needs to be included in each type of prospectus.

According to the *Commission Delegated Regulation 2019/980*, the prospectus shall therefore, *inter alia*, consist of:

- Information regarding the issuer, its organizational structure, administrative, management, and supervisory bodies, remunerations and benefits policy, board practices, as well as persons responsible for information provided in the prospectus.
- Risk factors as provided in detail above.
- Business overview, including principal activities and markets, strategies and objectives, and important events in the development of the issuer's business and investments.
- Operating and financial review, including the financial condition of the issuer and the issuer's likely future development.
- Regulatory environment.
- Trend overview in the operational and financial field.
- Information about the employees and related shareholding and stock option plans.
- Major shareholders, including any potential differences in voting rights as well as information on whether the issuer is directly or indirectly controlled and by whom.
- Related party transactions that the issuer has entered into during the period covered by the historical financial information and up to the date of the prospectus.
- Financial information about the issuer, including audited historical financial information covering the latest three financial years (or such shorter period as the issuer has been in operation) and the audit report in respect of each year prepared in accordance with the IFRS.
- Information about any (legal) proceedings (including any such proceedings which are pending or threatened of which the issuer is aware), during a period covering at least the year which may have, or have had in the recent past significant effects on the issuer and/or group's financial position or profitability, or provide an appropriate negative statement.

Since a prospectus is a complex and extensive document, the prospectus shall include a summary aiding the investors when considering whether to invest in a security or not. It shall be written in a way that is easy to read, using characters of readable size, and written in a language and a style that facilitates the understanding of the information, in particular, in language that is clear, non-technical, concise, and comprehensible for investors. A summary shall therefore include key information that investors need in order to understand the nature and the risks of the issuer, the guarantor, and the securities that are being offered or admitted to trading on a regulated market. In accordance with Article 7 of the Prospectus Regulation, a summary should include the following four sections: **(i)** introduction, containing the prescribed warnings, **(ii)** key information on the issuer, **(iii)** key information on the securities as well as **(iv)** key information on the offer of securities and/or the admission to trading on a regulated market.

4.3 Local market practice considerations

As evident above, there are fewer offerings of securities in the Slovenian market compared to other European markets. The continuing issue remains the low level of liquidity. The trend in the issuance of new securities and the volumes of financing of businesses on the capital market is not encouraging neither in the equity nor in the debt sector. This is likely due to the fact that businesses in Slovenia usually seek funding sources within the banking sector and not in the capital markets. As the capital markets are not as developed in Slovenia as in certain other EU countries, there is no particular local market practice in relation to drafting and content of the prospectus.

Nevertheless, in 2021, the Ljubljana Stock Exchange was listed as one of the most profitable stock exchanges in the world, despite the lingering effects of the COVID-19 pandemic.

4.4. Language of the prospectus for local and international offerings

According to Article 27 of the Prospectus Regulation, the language of the prospectus depends on the territory where the securities are offered to the public or where admission on a regulated marker is sought. Provided that the securities are offered to the public or admission to trading on a regulated market is sought:

- only in Slovenia as a home Member State, then the prospectus shall be prepared in the Slovenian language only (Article 27(1) of the Prospectus Regulation).
- in the home Member State, namely Slovenia, and in other host Member States, then the prospectus shall be prepared in the Slovenian language, however, it shall also be available in the language accepted by the competent authorities of each host Member State or in the language which is customary in the sphere of international finance, at the choice of the issuer, the offeror, or the person asking for admission to trading on a regulated market (Article 27(3) of the Prospectus Regulation).
- in other Member states (rather than the host Member State), the prospectus shall be prepared either in a language accepted by the competent authorities of those Member States or in a language customary in the sphere of international finance, at the choice of the issuer, the offeror or the person asking for admission to trading on a regulated market.

Nevertheless, according to paragraph 2 of Article 27(2) of the Prospectus Regulation, the competent authority of each host Member State shall require that the prospectus summary referred to in Article 7 be available in its official language, or at least one of its official languages, or in another language accepted by the competent authority of that Member State, but it shall not require the translation of any other part of the prospectus.

In the case where non-equity securities are offered to the public or admission to trading of non-equity securities on a regulated market is sought by one or more Member States, the prospectus shall be drawn up either in a language accepted by the competent authorities of the home and host Member States or in a language customary in the sphere of international finance, at the choice of the issuer, the offeror or the person asking for admission to trading on a regulated market. Such obligations apply only if such non-equity securities are to be traded only on a regulated market, or a specific segment thereof, to which only qualified investors can have access for the purposes of trading such securities or such securities have a denomination per unit of at least EUR 100,000 (Article 27(5) of the Prospectus Regulation).

5. Prospectus Approval Process

5.1. Competent authority/regulator

In Slovenia, ATVP is competent for all matters related to the publication of the prospectus and is responsible for monitoring compliance with the provisions of the prospectus.

5.2. Timeline, review, and approval process

The prospectus approval process is regulated in the Prospectus Regulation, Commission Delegated Regulations as well as in ZTFI-1. Furthermore, ATVP has adopted Guidelines on the prospectus review and approval process (*Smernice o postopku pregleda in potrditve prospekta*, Guidelines) which further regulate the prospectus review and approval process according to the *Commission Delegated Regulation 2019/980*.

The request for the approval of the prospectus for the offering of the securities to the public shall be submitted by the issuer or the offeror. In case the approval of the prospectus relates to the admission of securities to trading on a regulated it shall be submitted by the offeror or other person asking for admission to trading on a regulated market.

The request for the approval of the prospectus shall include the draft prospectus, confirmation on the payment of the administrative fee, a list of cross-references as well as all information required under point 2 of Article 42 of the *Commission Delegated Regulation 2019/980*. In the event that the request for approval relates to the approval of the prospectus for the first offering of the securities, then such a request shall also include the resolution of the complement authority of the issuer regarding its issuance. The request together with the required attachments shall be submitted to ATVP in electronic form via email to webmaster@atvp.si.

Once the request with the above-mentioned attachments is submitted, ATVP shall inform the issuer, offeror other person asking for admission about the receipt of the documentation no later than the end of the second business day following the receipt of the request.

If during the review process ATVP finds that the draft prospectus does not meet the standards of completeness, comprehensibility, and consistency from the Prospectus Regulation, ZTFI-1, and *Commission Delegated Regulation 2019/980* it shall inform the person submitting the request about the deficiencies within 5-20 business days (depending on the type of prospectus) and shall clearly specify the changes or supplementary information that need to be supplemented. ATVP emphasized in its Guidelines that it usually issues one or two such resolutions on remedying the deficiencies during each prospectus review process.

The final version of the prospectus shall be submitted to ATVP electronically and shall be signed by the authorized persons of the offeror or, if necessary, by other responsible persons (i.e., guarantors). The form of the final version of the prospectus is prescribed by the Article 44 of the *Commission Delegated Regulation 2019/980*.

ATVP shall reject the request if the request was not submitted by an eligible person or the prospectus is not compliant with the relevant legislative provisions or if the prospectus was not amended in accordance with ATVP's resolution within a set deadline.

Once the prospectus includes all the requested information and once all the vague and conflicting information in the prospectus have been amended or corrected accordingly, ATVP shall approve the prospectus and issue its decision. ATVP will

approve the prospectus provided that the request was submitted by the eligible person (issuer, offeror other person asking for admission to trading on a regulated market as it may be) and if the prospectus is compliant with all the requirements from the Prospectus Regulation, the applicable provision of ZTFI-1 and *Commission Delegated Regulation 2019/980*.

ATVP informs the issuer, the offeror, or the person asking for admission about its decision in writing by email as well as by post. ATVP shall issue a decision approving the prospectus:

- within 10 business days from the receipt of the request; however, the deadline shall only be applicable for the initial submission of the draft prospectus and not for subsequent amendments of the draft prospectus;
- within 20 business days in case of an initial public offering, namely where the offer to the public involves securities issued by an issuer that does not have any securities admitted to trading on a regulated market and that has not previously offered securities to the public;
- within five business days from receipt of the request in the case of a prospectus consisting of separate documents produced by frequent issuers.

Provided that the decision is not issued within the prescribed deadline, such a failure shall not be deemed to constitute approval of the prospectus.

6. Listing Process

6.1. Timeline, process with the stock exchange

If the issuer fulfills the conditions and criteria for listing on the Standard Market or for listing on the Prime Market, it may request that its shares are listed on the Ljubljana Stock Exchange. The process is governed by the LJSE Rules.

Under LJSE Rules, the application for listing stocks consists of a signed and completed application form and the Listing Agreement. The application and all other documentation should be in Slovenian or English. Alternatively, the documents may be filed in a different language, together with a certified translation into Slovenian or English. The deadline for the decision of the Stock Exchange regarding the listing is set to 30 days after the Stock Exchange received the application to be listed. However, the Stock Exchange may request additional information within eight days after the receipt of the application. In such case, the deadline for the decision of the Stock Exchange shall be prolonged.

In case all the conditions and criteria are fulfilled, the Stock Exchange signs the Listing Agreement and issues the decision on listing of the stocks. Before trading with the listed stocks may be initiated the applicant has to publish any potential supplement to the prospectus and pay the requested listing fee. If such obligations are fulfilled before Ljubljana Stock Exchange issues the decision on the listing, the date the trading is initiated is stated in the decision on the listing. However, if the applicant fails to timely fulfill its obligations and trading is not initiated within three months after the listing of the stocks, Ljubljana Stock Exchange may remove the stocks from trading. In such cases, both the Listing Agreement and the Stock Exchange's decision on listing cease to be valid.

In the case of bonds, the same procedure as described for the procedure of listing of stocks applies, insofar as the conditions and criteria for listing are fulfilled, the applicant fulfills its obligations relating to the publishing of the prospectus and other information, and completes all requirements prior to initiation of the trading.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

The primary source of (binding) corporate governance rules in Slovenia is the *Companies Act* (ZGD-1). ZGD-1 applies to all companies (public and private corporations, LLCs, sole proprietors, etc.). In accordance with ZGD-1, corporations may opt either for a two-tier or one-tier management system.

If a corporation opts for a two-tier management system, it shall be managed by the management board (consisting of one or more managers) and the management board shall be supervised by the supervisory board (consisting of at least three members). The management board shall be appointed by the supervisory board and shall direct the business operations of the company, represent the company, and act on the company's behalf. It shall report to the supervisory board. The supervisory board shall be appointed by the general meeting of the company and shall supervise the conducting of the company's business. The supervisory board may appoint one or more committees (e.g., audit committee, appointment committee, remunerations committee). A committee shall be composed of a chair and at least two members (the chair shall be appointed from among the members of the supervisory board). Committees shall report on their work to the supervisory board.

If a corporation opts for a one-tier system, it shall be managed by a unified board of directors (consisting of at least three members), appointed by the general meeting of the company. The unified board of directors shall manage a company and supervise its operations. In public companies, the unified board of directors shall appoint at least one executive director from among its members; however, no more than one-half of the members of the unified board of directors may be appointed executive directors. Executive directors shall represent and act on behalf of the company unless otherwise provided in the articles of association. The unified board of directors may also delegate certain tasks to the executive directors, including the management of current operations and administra-

tion of the books of account. The unified board of directors may appoint one or more committees; in public companies, the appointment of an audit committee is mandatory.

Besides ZGD-1, public companies also observe a legally non-binding Management Code for Publicly Traded Companies (*Kodeks upravljanja javnih delniških družb*, or Management Code), adopted by the Ljubljana Stock Exchange and Slovenian Directors' Association on October 27, 2016, and as amended on December 9, 2021. The Management Code sets forth recommendations for managing the companies on the basis of the *comply or explain* principle. The Management Code prescribes rules on, inter alia, the adoption of a management policy, corporate governance statement, and statement on the compliance with the Management Code; the relationship between the company and its shareholders; supervisory board, management board, and board of directors (including on the independence of their members); audit and internal control system; and transparency of business operations.

7.2. Any other ESG considerations

ZGD-1 prescribes that, when necessary, the companies shall include in their yearly business report markers, indicators, and other factors that include information concerning environmental protection and employees. In addition, all public companies are obliged to include in their annual report a description of the diversity policy implemented in relation to representation in the management and supervisory bodies of the company (having regard to gender and other aspects, such as age, education and professional experience, and including an indication of the objectives, modalities, and results of the diversity policy during the reporting period).

Additionally, the (non-binding) Management Code provides that all public companies shall develop and adopt a diversity policy and a sustainable growth policy. Public companies should also disclose a sustainability report, part of which shall be a corporate social responsibility report (touching upon responsibilities of the company to employees, consumers, local community, and environment), and that the remuneration of their management bodies shall promote sustainable development of the company and include non-financial criteria, important to create the long-term value of the company (such as compliance with applicable company rules and ethical standards). The sustainability report should be included in the annual report of the company and published on the company's website.

8. Ongoing Reporting Obligations (Life as a Public Company)

8.1. Annual and interim financials

Pursuant to ZGD-1 and ZTFI-1, public companies shall report on their financials annually and semi-annually.

They shall prepare their annual report (and consolidated annual report, if applicable) within three months of the end of each financial year. The annual report shall consist of a financial report (i.e., financial statements and notes to financial statements) and a business report. The annual report shall be examined by an auditor (according to the method and under the conditions specified by the legislation governing auditing), who shall audit the financial report and examine the business report to the extent necessary in order to verify whether its content accords with other components of the annual report. The annual report (along with the auditor's report) shall be published within four months after the end of each financial year.

Additionally, public companies shall also prepare an interim (semi-annual) report for the first six months of each financial year and publish it as soon as practicable and no later than three months after the end of a such six-month period. The semi-annual report shall consist of a summary of the financial report and an interim business report. If the semi-annual report was audited, the auditor's report shall be published as well. Furthermore, public companies holding listed shares in the Ljubljana Stock Exchange's Prime market shall also prepare and publish quarterly reports.

Public companies shall ensure that both annual and semi-annual reports are publicly available for at least 10 years after their publication.

Finally, the legally non-binding Management Code also prescribes certain rules on reporting, e.g., that public companies shall include in their business report a governance statement and statement on the conformity with the Management Code (also see Section 7.2. on ESG considerations in reporting).

8.2. Ad hoc disclosures

Public companies are required to disclose information (on an ad hoc basis) that is considered controlled information pursuant to ZTFI-1 and the MAR.

In addition to the annual and semi-annual reports, controlled information is especially information on **(i)** any changes to major holdings notified to the public company by the shareholder or other entity; **(ii)** change in the share of the own (treasury) shares held by the public company; **(iii)** change in the total number of voting shares; **(iv)** change in the content of the rights arising from securities; and **(v)** inside information (as defined in the MAR). Public companies shall also publish the information on their general meetings and certain other information.

The controlled information should be disclosed by the issuer as soon as possible and at the latest within the time limits prescribed for each type of controlled information by ZTFI-1 and the MAR, in a manner that ensures rapid access to that information on a non-discriminatory basis. The disclosure

of controlled information must contain all information that enables investors to assess the position of the public company and to assess the impact of the controlled information on the price of the issuing financial instrument. When a public company or another person who has requested the listing of securities on a regulated market without the consent of the public company discloses controlled information, it shall at the same time submit the contents of that disclosure to ATVP. It should be noted that, under certain conditions set forth in the MAR, the issuer may (on its own responsibility) delay disclosure to the public of inside information. The issuer should also inform the competent authority, i.e., ATVP, on the delayed disclosure of inside information in accordance with Article 17 of the MAR.

Finally, ad hoc disclosures are also regulated in applicable legally non-binding documents. The Management Code prescribes that public companies shall ensure timely and accurate public disclosure of all controlled and other relevant business information. Such information includes e.g., information about the company, financial position, business, ownership, management of the company, and future expectations, as well as other information that has an impact on the position of investors). Furthermore, Ljubljana Stock Exchange has issued the *Recommendations on Reporting of Public Companies* (*Priporocila javnim druzbam za obvescanje*, or the Recommendations). The purpose of the Recommendations is to define the disclosure standards of public companies holding listed shares in the Ljubljana Stock Exchange's Prime market and they are intended to set forth good practices with regard to the disclosure of inside information and other types of controlled information. Note that, despite the general non-binding nature of the Recommendations, some of the provisions of the Recommendations are nevertheless binding for public companies holding listed shares in the Ljubljana Stock Exchange's Prime market (e.g., mandatory quarterly reporting, reporting in English, a statement on the compliance with the Management Code).

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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LEGAL MATTERS

1. Market Overview

Turkish capital markets have undergone significant developments since the legislative change at the end of 2012 through the enactment of *Capital Markets Law No. 6362* (CML). The CML is a framework law aiming to harmonize Turkish capital markets legislation with European Union regulations, to the extent possible. Detailed provisions regarding specific capital markets instruments and transactions are regulated in the secondary legislation issued by the competent authorities, including the Capital Markets Board (CMB).

Turkish capital markets experienced a slow year in 2020 due to the emergence of the COVID-19 pandemic. However, an unexpected rise in the number of Turkish initial public offerings (IPOs) occurred in 2021, with 32 companies launching IPOs and collecting approximately TRY 14.6 billion. This rise continued in 2022. As of 24 December 2022, the number of investors in the Turkish equity capital markets has become 3.7 million (compared to 2.4 million in 2021) and the total market capitalization has reached TRY 6.1 trillion. Most of this increase was due to domestic investors' growing interest. Indeed, the foreign investors' ratio has decreased to about 30% by the end of 2022, which is the lowest of all time.

Generally, the companies that go public on the Turkish capital markets are Turkish companies.

2022 marked a significant regulatory development in Turkey in terms of sustainable debt instruments. Due to the increased demand for sustainable debt instruments, the CMB has recently published a guideline on green debt instruments, sustainable debt instruments, green lease certificates, and sustainable lease certificates in February 2022, which is in line with the *Green Bond Principles* of the International Capital Market Association. However, the risk of the use of the proceeds of green bonds in projects that in reality have a negligible impact on the environment (i.e., corporate greenwashing) still remains due to the growing number of firms issuing green bonds and the high demand for these instruments. Given that green bonds are relatively a new concept, the relevant authorities are expected to regulate these instruments in detail in the near future.

2. Overview of the local stock exchange and listing segments (markets)

2.1. Regulated market

The CMB is the primary regulatory and supervisory authority in Turkish capital markets. The CMB's main objective is to ensure fair, efficient, and transparent capital markets by protecting the investors' rights and interests and improving the Turkish capital market's competitiveness. The structure, powers, and responsibilities of the CMB are defined in the CML. Accordingly, the CMB supervises and regulates the activities of, among others, public companies, capital markets institutions (e.g., banks and other financial intermediaries, mutual funds, investment companies, appraisal companies, rating firms, and other institutions engaged in capital markets activities), and the investors in the relevant markets. Entire procedures of offering and issuing all kinds of securities are subject to the CMB's supervision under the CML and its secondary regulations. The CMB is also entitled to apply sanctions against parties who breach the CML and its secondary legislation. The sanctions mainly include administrative penalties, license revocation, trading bans, and imprisonment for certain crimes, such as insider trading and market manipulation in connection with capital markets activities.

Borsa Istanbul Anonim Sirketi (BIST), as a self-regulatory entity, is the sole securities exchange in Turkey. Prior to the BIST's establishment, there were several exchanges in Turkey (i.e., Istanbul Stock Exchange, Istanbul Gold Exchange, and Turkish Derivatives Exchange (Turkdex)). The CML provided for the establishment of the BIST, which would assume all assets, rights, and obligations of the Istanbul Stock Exchange and Istanbul Gold Exchange upon registration of its articles of association with the Istanbul Trade Registry. In addition, under the CML, shareholders of Turkdex were granted an option right to subscribe to the BIST's share capital within one month of the registration of the BIST's articles of association. The registration of the BIST's articles of the association took place on April 3, 2013, and upon the exercise of the said option right by Turkdex's shareholders, Turkdex was merged under the BIST. As a result, the BIST replaced the former exchange entities and remains the only exchange entity. To be able to trade on the BIST's relevant markets, issuers must apply to the BIST for the listing of their securities in accordance with the applicable legislation.

The BIST has four main markets:

(i) Equity Market: Equities, exchange-traded funds, warrants and certificates, participation certificates of venture capital investment funds and real estate investment funds, and real estate certificates are traded on the Equity Market. The Equity Market is divided into several sub-markets (terms and conditions, and the list of instruments traded in such sub-markets is subject to the updates by the BIST) where the companies or instruments listed below are traded in:

- companies with a market capitalization of actual free float shares of at least TRY 300 million are listed on the BIST Stars Market,
- companies with a market capitalization of actual free float shares of between TRY 75 million and TRY 300 million are listed on the BIST Main Market,
- companies with a market capitalization of actual free float shares of between TRY 40 million and TRY 75 liras are listed on the BIST Sub Market (the BIST Stars, BIST Main, and BIST Sub Markets were also divided into groups based on the

value of the company shares offered to the public; however, as of October 1, 2020, a simplified equity market structure as explained above applies),

- shares of companies in which developments that would result in exclusion from the BIST Stars, BIST Main, or BIST Sub Markets as per the *Listing Directive of the BIST* (Listing Directive) have occurred are traded on the Watchlist Market,
- warrants and certificates, exchange-traded funds, participation certificates of real estate investment funds and venture capital investment funds, ownership-backed lease certificates, and real estate certificates are traded on the Structured Products and Funds Market,
- shares of companies that are issued for direct sale to "qualified investors" (as defined in the applicable legislation) without being offered to the public and other capital market instruments that are approved by the BIST's board of directors are traded only among qualified investors on the Equity Market for the Qualified Investors, and
- shares of companies that became public due to achieving a total number of more than 500 shareholders, which are not yet listed on the BIST, and shares with a free float ratio below 5% can be traded on the Pre-Market Trading Platform.

(ii) Debt Securities Market: Debt securities, securitized assets and income-backed debt securities, lease certificates, liquidity bills issued by the Central Bank of the Republic of Turkey, and other securities which are approved by the board of directors of the BIST, which can be issued in Turkish liras or foreign currency can be traded on the Debt Securities Market. The Debt Securities Market is divided into several sub-markets:

- secondary market transactions of debt securities are conducted on the Outright Purchases and Sales Market,
- debt securities of companies whose shares are traded on the Equity Market are issued to qualified investors on the Offering Market for Qualified Investors,
- repo-reverse repo transactions are conducted on the Repo-Reverse Repo Market,
- repo-reverse repo transactions with specified debt securities are conducted on the Repo Market for Specified Securities,
- repo-reverse repo transactions are carried out with the shares of the companies that are traded on the Equity Market and which are included in the BIST 50 Index on the Equity Repo Market,
- foreign debt securities (Eurobonds) issued by the Ministry of Treasury and Finance and listed by the BIST are traded on the International Bonds Market,
- same day or forward value date buy-sell transactions between the seller party with a commitment to repurchase predetermined security and the buyer party with a commitment to resell that security are realized on the Committed Transactions Market,
- capital market instruments that were previously traded in the Outright Purchases and Sales Market and decided to be traded in the Watchlist Market pursuant to the Listing Directive are traded on the Watchlist Market,
- banks and intermediary institutions may conduct collateralized money purchase and sale transactions on the Money Market, for which Istanbul Settlement and Custody Bank (Takasbank) provides central counterparty service, and
- swap transactions aiming at the exchange of different currencies with each other or the exchange of currencies with precious metals within the determined conditions are conducted on the Swap Market.

(iii) Derivatives Market: The trading futures and options contracts based on economic or financial indicators and capital markets instruments, along with the other derivative products in an electronic environment are traded on the Derivatives Market.

(iv) Precious Metals and Diamond Market: Precious metals and diamond transactions are traded on the Precious Metals and Diamond Market, which was formed upon the merger of the Istanbul Gold Exchange into the BIST.

2.2. Non-regulated market

As explained above, since 2012, Turkish capital markets have gone through legislative changes and developments, and restructuring by way of vertical integration of exchanges under the BIST. The BIST is currently the sole securities exchange and does not operate in any non-regulated markets. Indeed, all trading infrastructure services such as order matching and listing are provided by the BIST and there are not any multilateral trading facilities that would be considered a non-regulated market.

3. Key Listing Requirements

3.1. ECM

A company that decides to go public must prepare a prospectus *(izahname)* and apply to the CMB for its approval and to the BIST for the listing of the offered shares. However, there is a specific exemption for offering securities only to qualified investors. In such case, a company subject to the CML must prepare an issuance certificate (*ihrac belgesi*) for the issuance of securities only to qualified investors. A simultaneous filing to the CMB and the BIST is preferred since it will significantly reduce processing times.

Under the CML, only joint stock companies can become public and be listed on the BIST. Public offerings may be made by selling some of the company's existing shares or through a capital increase in which the preemptive rights of the existing shareholders will be partially or wholly restricted. The compa-

ny may either choose one of these methods or combine both methods. In addition, a company's shares that are listed for the first time on the BIST can be traded either on the BIST Stars, BIST Main, or BIST Sub Markets or on the Equity Market for Qualified Investors.

The key listing requirements are regulated under several applicable legislations (i.e., the *Communique on Shares No. II-128.1*, *Communique on Prospectus and Issuance Certificate No. II-5.1*, and the *Listing Directive*). According to *the Communique on Shares No. II-128.1*, the material conditions precedent for a public offering are as follows:

- the existing share capital of the company must be fully paid-in and have been free from revaluation surplus funds or similar other funds arising out of the carriage of assets to a fair value within two years prior to the application for the public offering, except for the funds permitted by the applicable legislation,
- the company's non-trade related party receivables must not exceed 20% of its total receivables or 10% of its total assets, and
- if the company has been transformed into a joint stock company within two years prior to the application for the public offering, the shareholders' equity items included in the pre-transformation balance sheet must be shown as separate items in the balance sheet as a continuity of the pre-transformation company, without making a consolidation under the capital account in the opening balance sheet of the post-transformation company, and a certified public accountant's report must be issued for determination of the such issue.

In addition, the *Listing Directive* provides for other key listing requirements:

- an application filed for the initial listing of a company's shares must concern the entire share capital of the company,
- except for applications filed by investment trusts and companies applying for trading on the Equity Market for Qualified Investors, the company's total assets must not be less than TRY 450 million and its net sales revenue must not be less than TRY 270 million pursuant to its 2022 year-end financial statements (prepared and audited in accordance with the applicable legislation),
- two years must have elapsed since the company's establishment, including, if applicable, the amount of time that the business has existed in any form of a capital company other than a joint stock company (this requirement does not apply if the company is a holding company which holds at least a 51% interest in a company that has existed for over two years),
- the company must meet the following key conditions of any one of the relevant markets:

a) free float market value of shares must be at least TRY 300 million for the BIST Stars Market, TRY 75 million for the BIST Main Market, and TRY 40 million for the BIST Sub Market;

b) the minimum ratio of the nominal value of free float shares to the entire share capital must be at least 15% for the BIST Stars Market, 20% for the BIST Main Market, and 25% for the BIST Sub Market;

c) the company must have earned a profit in the past two years according to its independently audited annual financial statements for all three markets; and

d) the minimum ratio of shareholders' equity to the share capital according to the most recent independently audited financial statements must be over one for the BIST Stars and Main Markets, and over 1.25 for the BIST Sub Market,

- the BIST must have examined the company's financial structure and accepted its ability to continue as an ongoing concern,
- the company's shares must not be restricted by encumbrances precluding the shareholder from exercising its shareholding rights,
- the company's articles of association must not include any provisions restricting the transfer and circulation of the securities to be traded on the BIST,
- except for reasons that may be accepted by the BIST, the company must not have suspended its business activities and operations for more than three months and has not been involved in any process of liquidation or concordat (*konkordato*) or suspension of bankruptcy or similar other proceedings specified by the BIST within the last year,
- there must not be any material legal disputes that may adversely affect the company's products and activities,
- a legal expert report confirming that the company's establishment, governance, operations, and shares comply with the applicable laws and regulations must be issued by an independent legal adviser, and
- the issuer company must pay the CMB a fee calculated over the total nominal value of the shares being issued during the public offering.

3.2. DCM

An issuer must apply to the BIST for the listing or registration of its debt securities and to the CMB for the approval of the prospectus or, if the securities will be issued to qualified investors without a public offering, the issuance certificate. Such applications can be filed for a standalone issuance covering a pre-determined amount in full or in a manner covering all issuances to be made in ranks within a certain period, which must be within the CMB-approved issue ceiling amount. Debt securities that are issued solely to qualified investors can be listed by the BIST upon the CMB's approval of the issuance certificate.

The key listing requirements are regulated under several appli-

cable legislations (i.e., the *Communique on Debt Instruments No. VII-128.8*, *Communique on Prospectus and Issuance Certificate No. II-5.1*, and the *Listing Directive*). The key listing requirements for debt securities to be issued through public offering are as follows:

- two years must have elapsed since the issuer company's establishment,
- its total shareholders' equity must be greater than its share capital according to the issuer's most recent independently audited financial statements prepared as per the CMB regulations,
- the issuer must have earned profits before tax in at least one of its financial statements pertaining to the last two annual accounting periods,
- the BIST must have examined the issuer's financial structure and accepted its ability to continue as an ongoing concern,
- there must not be any material legal disputes that may adversely affect the company's production and activities, and
- a legal adviser report confirming that the issuer's establishment, governance, operations, and debt securities comply with the applicable laws and regulations must be issued by an independent legal adviser.

However, these listing requirements do not apply if **(i)** the issuer's shares are traded in the BIST Stars, BIST Main, or BIST Sub Markets, **(ii)** the issuer is a bank supervised by the Banking Regulation and Supervision Agency (BRSA) in terms of its establishment and operating licenses and the BRSA has consented to the issuance of the relevant debt securities, or **(iii)** the issuer is an investment firm subject to the CML in terms of its establishment and operating licenses.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

The CMB is the main authority regulating Turkish capital markets, including the rules on IPOs. In addition to the CMB, the BIST, Takasbank, and the Central Registry Agency are the main rule-making authorities on equity markets in Turkey. The most important legislation applicable to companies considering going public in Turkey are:

- the *Turkish Commercial Code*,
- the CML,
- the *Communique on Shares No. VII-128.1*,
- *Communique on Prospectus and Issuance Certificate No. II-5.1*,
- *Communique on Sales of Capital Market Instruments No. II-5.2*,
- *Communique on Material Events No. II-15.1* (Material Events Communique),
- *Communique on Corporate Governance No. II-17.1* (Corporate Governance Communique),
- the *Listing Directive*, and
- relevant directives, general letters, and announcements of Takasbank and the Central Registry Agency.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

Debt securities markets are regulated by the following legislation:

- the *Turkish Commercial Code*,
- the CML,
- the *Communique on Debt Instruments No. VII-128.8*,
- *Communique on Sales of Capital Market Instruments No. II-5.2*,
- *Communique on Prospectus and Issuance Certificate No. II-5.1*, and
- the *Listing Directive*.

4.3. Local market practice considerations

In order for the shares of a company to be traded on the relevant market of the BIST, a prospectus has to be approved by the CMB and the shares have to be listed on the relevant BIST market. Accordingly, a company planning to apply for a public offering must go through a preparation process. In this respect, the following steps are initially expected to be conducted by a company that is going public:

- Constitution of the internal working group and external advisers

A working group consisting of finance and public relations department employees and relevant mid-level managers will be formed within the company. The company will also appoint professional external advisors (e.g., financial, legal, and public relations advisers, independent auditors) as well as CMB-authorized intermediary institutions, the list of which is available on the CMB's website.

- Preparation of financial statements

The issuer is required to prepare financial statements which must be audited by an independent auditor in accordance with the capital market regulations.

- Execution of an intermediation agreement with intermediary institutions

In order for company shares to be offered to the public, the company must agree with an intermediary institution, and the agreement is required to be signed between the intermediary institution, the company, and the shareholders who will offer their shares to the public (if any).

- Ordinance of general assembly meeting and the amendment of articles of association

The issuer must amend its articles of association to comply with the capital markets legislation and rules and an amend-

ment proposal regarding the relevant changes must be submitted to the CMB. The CMB, the Ministry of Commerce, and if applicable, other governmental authorities' approval on the issuer company's articles of association amendment in accordance with the applicable legislation must be obtained prior to the convening of the general assembly meeting.

■ IPO price determination

The public offering price will be calculated by the appointed intermediary institution without the intervention of any other institution including the CMB and the BIST. However, the price evaluation report can be subject to an examination by another intermediary firm.

■ Legal due diligence work

A legal adviser shall be appointed for the preparation of the legal documents (e.g., the legal due diligence report and application documents to be prepared in line with the CMB and BIST regulations).

■ Preparation of the prospectus and any other documents for the application to CMB and BIST

The company and/or the intermediary institution will get in contact with the CMB and the BIST's specialists in the preparation stage and prepare the necessary application documents under their guidance. Among these documents, a prospectus is required to be prepared by the issuer and approved by the CMB for capital markets instruments to be offered to the public and traded on the exchange.

The prospectus must contain all information that should be known about the issuer and the public offering process. It includes, among others, information relating to the issuer's shareholding and group structure, fields of activity, audited and/or limited reviewed financial statements, and all potential risks relating to the public offering process. The prospectus must be clear and understandable, allowing the investors to make the right investment decision in the public offering. The prospectus must be signed by the issuer and the shareholders of the issuer if applicable, and the intermediary institution prior to submission to the CMB.

4.4. Language of the prospectus for local and international offerings

The language of the documents to be submitted to the CMB, including the prospectus and the issuance certificate, must be Turkish. If such documents are intended to be translated into a foreign language (e.g., in a public offering aiming at both domestic and international investors), the relevant translation text shall be published at the same time and in the same place as the Turkish original. In addition, if there are documents in a foreign language that were used in the preparation of the prospectus and are not made public in the prospectus' attachments, the prospectus must clearly state where the relevant parts of such documents can be accessed. If the CMB deems it necessary, it may require that the relevant parts of such documents be translated into Turkish by a sworn translator.

5. Prospectus Approval Process

5.1. Competent authority/regulator

ECM: The competent authorities are the CMB and the BIST. Additionally, the CMB, the Ministry of Commerce, and if applicable, other governmental authorities (e.g., BRSA) approval on the issuer company's articles of association amendment regarding the IPO process must be obtained prior to the application to the CMB.

DCM: The competent authorities are the CMB and the BIST. In addition, if the issuer is operating in a regulated sector (e.g., banking), the relevant regulatory authority's (e.g., the BRSA) consent must be obtained prior to the application to the CMB.

5.2. Timeline, review, and approval process

ECM: The timing of an IPO depends on several factors, including the complexity of the transaction and the corporate structure of the issuer, the issuer's industry, the financial conditions of the issuer, market conditions, and economic developments during the IPO process. Therefore, it is difficult to determine an exact timeline for the IPO process. However, in practice, the IPO process takes approximately six months. In this respect, an indicative roadmap for an IPO process is below.

Preparation process

Once the company decides to offer its shares to the public, the public offering preparation stage begins. As explained above, the company will form an internal working group, appoint external advisors and intermediary institutions, get in contact with the CMB and the BIST's specialists, and the company must amend its articles of association to comply with the capital markets legislation during this stage and must submit the proposed articles of association to the CMB for its approval. There is no exact timeline for this process. However, in practice, it usually takes approximately two-three months.

Application to CMB and BIST

The company is required to prepare the prospectus and apply the CMB for its approval. The company must also apply to BIST for listing. In this respect, due diligence on the company will be conducted and the due diligence report is required to be prepared by the external legal adviser then due diligence report and required other documents will be submitted to the BIST.

Following the submission of all required documents, the CMB and the BIST's experts visit the company's headquarters and other facilities (if any) to perform on-site investigation during the period between applications to and approvals of the

CMB and the BIST, the company must submit membership applications to **(i)** the Central Registry Agency, **(ii)** the Public Disclosure Platform, **(iii)** Takasbank, and **(iv)** the electronic general assembly system which is provided by the Central Registry Agency and which enables the shareholders to attend general assembly meetings online. The Central Registry Agency conducts the electronic dematerialization and registration of capital markets instruments, safeguarding the confidentiality of securities records and it operates the Public Disclosure Platform. In addition, the shares traded on the BIST must be dematerialized in their entirety and physically held by Takasbank.

Within 15 business days of the CMB's approval, the approved prospectus must be published on the issuer and the intermediary institution's official websites, as well as on the Public Disclosure Platform.

Public Offering

Public offering of shares may at the earliest be started on the third day following the date of publication of the prospectus and the price determination report (or whichever was published at the latest). The sale period can be determined by the issuer, provided that it is not less than two business days and not more than 20 business days.

The company's shares are offered to the public by the intermediary institution or a consortium in accordance with the CMB regulations, within the dates and principles determined in the prospectus. Once the sale is completed, the intermediary institution publishes the results of the public offering on the Public Disclosure Platform and notify it to the BIST and the CMB.

Accordingly, the BIST evaluates the sale results in accordance with the listing requirements specified in the prospectus. Once such requirements are met, the company's shares will begin trading on the second business day following the announcement to be made on the Public Disclosure Platform.

DCM:

Debt securities may be issued to be sold domestically, with or without a public offering, or abroad. Domestic sales without a public offering may be made either in the form of sales to qualified investors or in the form of a private placement, provided that the unit nominal value is equal to at least TRY 100,000. In the event of a public offering of debt securities, the issuer must prepare a prospectus and apply it to the BIST for the trading of the debt securities. However, if the debt securities will be issued without a public offering, the preparation of an issuance certificate by the issuer and approval by the CMB will be sufficient. The approval process usually takes about two to three months.

Among the debt securities that are issued without a public offering, those issued for sale to qualified investors can be listed and quoted on the BIST's relevant market to be traded among qualified investors. However, debt securities issued for sale through a private placement are generally not listed or traded on the BIST within the scope of the provisions specified in the relevant capital markets regulation.

For the issuance of debt securities, the issuer's general assembly of shareholders or the board of directors, which should be authorized either with a general assembly resolution or by the articles of association, must adopt a resolution. The resolution must set out the amount of debt securities that are planned to be issued and the offering place and method.

Debt securities that will be issued domestically are required to be issued on a dematerialization basis via the Central Registry Agency in electronic media. As a result, the issuers must apply to the Central Registry Agency after obtaining the CMB approval on the prospectus or the issuance certificate.

The issuer must pay a CMB fee, which will be calculated over the issue amount and varies according to the maturity of the debt security.

Debt securities sold on a private placement basis cannot be held by more than 150 investors in total during a certain period of time. This limit does not apply to secondary market transactions of shares.

Sales to qualified investors can only be made through a call addressed to those investors or through a process in which the qualified investors are pre-determined. No limitation on the number of investors applies in the event of debt security sales to qualified investors.

6. Listing Process

6.1. Timeline, process with the stock exchange

See Sections 3. and 5.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

The main piece of legislation regulating corporate governance is the *Turkish Commercial Code*, the CML, and the *Corporate Governance Communique*. The *Turkish Commercial Code* contains corporate governance provisions for both public and non-public companies, including but not limited to the composition and duties of the board of directors, shareholders' right to request and review information, and audit of the company. The CML sets out the main framework of the corporate governance principles for public companies and authorizes the CMB to define such principles and related procedures. In that regard, the *Corporate Governance Communique* was published in the Official

Gazette on January 3, 2014 and has only been amended once in October 2020 to incorporate sustainability-related provisions, which are detailed under Section 7.2.

The *Corporate Governance Communique* provides for mandatory and non-mandatory (voluntary) corporate governance principles that are applicable to public companies. The non-mandatory principles operate on a "comply or explain" basis, according to which the reason for any non-compliance must be detailed in the annual activity reports. Under the Corporate Governance Communique, the companies are categorized into three categories based on their market capitalization and the market value of their free float shares, which is recalculated each year in January by the CMB. While first-category companies must comply with all mandatory corporate governance principles, certain exemptions apply to second and third-category companies.

The *Corporate Governance Communique* covers matters in relation to the listed company's shareholders, stakeholders, and board of directors, public disclosure and transparency, and related party transactions. Accordingly, the board of directors of a listed company must be composed of at least five members. The number of independent members must be at least two and cannot be less than one-third of the total number of board of directors' members. To be an independent member, certain criteria are stipulated by the Corporate Governance Communique, such as not having direct or indirect commercial relations with the company, a related party of the company, or with shareholders who hold 5% of the total capital of the company. In addition, the duties of the chairman of the board of directors and the Chief Executive Officer should be clearly separated. In the event it is decided to have the same director serve as both the chairman and the Chief Executive Officer, the reasons for the such decision must be disclosed on the Public Disclosure Platform.

Under the *Corporate Governance Communique*, **(i)** an audit committee; **(ii)** a corporate governance committee; **(iii)** early detection of risk committee; **(iv)** a nomination committee; and **(v)** a remuneration committee must be formed within the board of directors.

7.2. Any other ESG considerations

ESG consists of the environmental, social, and governance practices that may have a fundamental impact on the performance of the issuer company's investment. As these aspects of ESG are linked to transparency, and consciousness, and becoming a material part of the investment process, they became essential for the investment of public companies. The *Corporate Governance Communique* was amended on October 2, 2020, to incorporate non-mandatory sustainability principles to be followed on a "comply or explain" basis. On the same date, the CMB announced the *Sustainability Principles Compliance Framework*, which consists of the principles to be followed and disclosed by public companies in the conduct of ESG activities.

According to the *Sustainability Principles Compliance Framework*, public companies are required to adopt and disclose to the public ESG policies, strategies, and action plans. In addition, they must report on and disclose to the public their sustainability performance, goals, and actions at least once a year. The information relating to sustainability activities must also be included in public companies' annual activity reports. In case there are significant changes in respect of these issues, the companies will have to report these changes in their interim reports.

8. Ongoing Reporting Obligations (Life as a Public Company)

8.1. Annual and interim financials

According to the *Communique on the Principles Regarding Financial Reporting in Capital Markets No. II-14.1* (Financial Reporting Communique) and the *Communique on Public Disclosure Platform No. VII-128.6*, issuers must prepare annual activity reports and financial statements in accordance with the *Turkish Financial Reporting Standards*. The companies whose shares are listed on an exchange and/or another marketplace must also prepare interim financial statements and activity reports on a quarterly basis.

The company's financial statements and independent audit reports are required to be disclosed on the Public Disclosure Platform within the period specified in the Financial Reporting Communique. This period depends on whether the company is required to prepare consolidated financial statements.

Public companies must present their annual financial statements and related independent audit reports to the Public Disclosure Platform at least three weeks before the general assembly meeting in which these will be discussed. In any event, annual financial statements must be presented to the Public Disclosure Platform by the end of the third month following the end of the accounting period.

8.2. Ad hoc disclosures

General

The material events for public companies subject to disclosure obligations are detailed in the *Material Events Communique* and the *Material Events Guideline* of the CMB. Public companies are required to prepare and disclose financial statements and reports as well as other information which may affect the value or price of capital markets instruments or the investors' investment decisions. All information that is required to be disclosed under the applicable capital markets legislations will be disclosed to the public through an electronic system, the Public Disclosure Platform, which is available at www.kap.gov.

tr and operated by the Central Registry Agency.

The language of public disclosures must be Turkish. However, if the CMB deems it necessary, it may request disclosures in languages other than Turkish, taking into account the market in which the company is traded, the group to which the company is included in accordance with the CMB regulations regarding corporate governance principles, or any other criteria deemed appropriate by the CMB.

Insider Information

Under the *Material Events Communique*, information, events, and developments that may affect the value or price of capital markets instruments or the investors' investment decisions, which have not yet been disclosed to the public are defined as "insider information." The insider information and any changes to such information must be disclosed by issuers upon the occurrence or being aware of such information and changes. In the event that insider information is obtained by persons who, directly or indirectly, hold 10% or more of the total share capital and/or total voting rights of the issuer company or, regardless of such percentage, the privileged shares, which give the right to elect or nominate a board member to the issuer company's board of directors, this person must also disclose such insider information to the public. The issuer company will individually assess whether an event constitutes insider information and decide on whether to disclose it to the public. In addition, public companies must provide the CMB and the BIST with a list of persons having access to insider information, which must be kept up to date.

An issuer company may, in its sole responsibility, decide to postpone disclosure of insider information to protect its legitimate interests, provided that **(i)** it can ensure strict confidentiality of such information, **(ii)** the postponement will not mislead investors, and **(iii)** the company's board of directors has resolved on the necessary precautions to protect the information's confidentiality and confirmed that the postponement will not mislead investors. If such insider information is leaked or the reasons for the postponement no longer exist, the relevant information must immediately be disclosed by the company.

In the event of news or rumors about issuer companies that may affect the value and price of securities or the investors' investment decisions, the issuer company is obliged to make a public disclosure as to the accuracy and adequacy of such news or rumors.

The BIST may request that the company make a disclosure regarding any change in prices or trading volumes of securities that cannot be explained by ordinary market conditions. In such disclosure, the company must disclose to the public any existing inside information unless it decides to postpone such disclosure to the extent possible.

The following are some examples that may constitute insider information:

- events or developments such as any regulatory change, legal or administrative decision, or natural disasters which may result in the partial or complete suspension of the issuer's activities,
- material administrative or legal proceedings, extraordinary income and profit, mergers, acquisitions or takeover bids, and material changes in the company's financial situation,
- material changes related to financial assets, and
- changes in the company's independent auditors and management bodies.

Continuous Information

The CMB also requires public companies to disclose certain information other than inside information on the Public Disclosure Platform, on an ongoing basis. Such information includes; changes in the company's shareholding or management structure, changes in rights attached to different groups of shares, information on the general assembly of shareholders, information on the distribution of dividends, issuance of new shares, the exercise of preemptive rights, and cancellation or if applicable, conversion of the issued shares, changes relating to the general information on the company that is already available on the Public Disclosure Platform.

Issuers must notify the Public Disclosure Platform of the changes relating to their general information that has already been made public within two business days of the change. In addition, changes regarding the shareholding chart that is available on the Public Disclosure Platform which indicates the shareholders directly having 5% or more of the shares or voting rights of the issuer will immediately be reflected by the Central Registry Agency.

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1. Market Overview

1.1. Market Trends

London has long been considered one of the preeminent locations for a company considering listing equity or debt securities. The London Stock Exchange's (LSE) Main Market is the world's most international market for the admission and trading of equity, debt, and other securities, and despite the difficult market conditions that have resulted from Russia's invasion of Ukraine and the challenges presented by Brexit, London has retained a competitive market position in 2022 in terms of initial public offering (IPO) deal count, debt listings and deal volume as compared to all other European listing venues. The city's deep and knowledgeable pool of institutional investors and stable and developed legal environment have laid the foundation for a thriving venue for primary and secondary offerings.

London's equity and debt markets are relatively sector-agnostic and attract companies from a broad range of industries and geographies. In 2021, over 120 companies were listed on the LSE, raising GBP 16.8 billion: this was the strongest year for IPO capital raising since 2007 and the highest number of IPOs since 2014. Notable examples include Trustpilot, Darktrace, Wise, Oxford Nanopore Technologies, Dr. Martens, Deliveroo, Bridgepoint, Alphawave IP, and Moonpig. In 2022, equity capital markets were badly affected by the Ukraine crisis, and very few IPOs were executed; but there are strong indications that the IPO market will return in the second half of 2023. In relation to secondary equity fundraisings, after a large number of Covid-related fundraisings in 2020, there was a relatively modest number of large fundraisings in 2021 and 2022, although quite a few companies raised smaller amounts by placing shares with selected institutional investors. Taking a longer view, the number of companies coming to list in London has been declining for several years – due partly to companies staying private for longer, reduced appetite for listed company shares from traditionally long-only public investors, listed companies being taken private through takeovers and other factors – but various reforms have already been introduced or are in progress that is designed to address these problems. These include the proposed reforms to the prospectus regime described below.

From a debt capital markets perspective, in 2022, 853 bonds were issued on the LSE with USD 351 billion in debt capital raised. These figures represent a slight increase in the number of bonds issued compared to 2021, but a significant decrease in the volume of debt capital raised year-over-year due to the challenging economic environment. That being said, 2021 and 2022 have seen a sizeable increase in the LSE's Sustainable Bond Market (SBM) with over USD 70 billion raised in 2021 and over USD 53 billion raised in 2022. In particular, there were milestone sustainability-linked bonds issued by two sovereign issuers in 2022. In March 2022, the Republic of Chile issued the world's first sovereign sustainability-linked bond, a USD 2 billion 4.35%. Note due March 2042 listed on the LSE's International Securities Market (ISM) and SBM. The Republic of Uruguay also listed its debut USD 1.5 billion 5.75%. sustainability-linked bond due 2034 on the ISM and SBM in October 2022, becoming the second sovereign to issue a sustainability-linked bond. Moreover, listings on the ISM have continued to grow with over USD 42 billion raised (265 bonds) in 2022. The ISM also continues to have a diverse global reach with debt listings from over 29 countries.

1.2 Upcoming Reform of the UK Prospectus Regime

Following the end of the Brexit transition period on December 31, 2020 (the Brexit Transition Period), the UK has its own prospectus regime which as at the date of this Guide largely mirrors the EU prospectus regime. A key regulatory change expected in the coming year is the overhaul of the UK prospectus regime which will result in greater regulatory divergence between the two regimes. The main changes under the proposed UK prospectus regime include that the regulation of admission of securities to trading on a UK regulated market will be separated from the regulation of public offers of securities and the UK Financial Conduct Authority (the FCA) will be responsible for specifying the circumstances when a prospectus is required if securities are to be admitted to trading on a UK regulated market, the information it must include and the process for getting it approved and published.

2. Overview Of The Local Stock Exchange And Listing Segments (Markets)

The LSE is the primary stock exchange in the UK, although there are also a small number of companies listed on other exchanges, including NEX Exchange and Euronext London (which is primarily used in cases where a company is pursuing a dual IPO on one of Euronext's other European exchanges).

The LSE operates four main markets: the Main Market, the Alternative Investment Market (AIM), the Professional Securities Market (PSM), and the ISM. Equity securities are primarily listed on the Main Market or the AIM. Debt securities are primarily listed on the Main Market and the ISM with listings on PSM becoming increasingly infrequent.

2.1. Regulated Markets

The Main Market is the LSE's flagship market and is a "regulated market" under *Regulation (EU) No. 600/2014* as it forms part of UK domestic law by virtue of the *European Union (Withdrawal) Act 2018* (EUWA) (UK MiFIR). Issuers seeking admission to trade securities on the Main Market must ensure that the prospectus is approved by the FCA and that the securities are admitted to the FCA's Official List.

2.2. Non-Regulated Markets

AIM operates as an exchange-regulated market or a multilateral trading facility under UK MiFIR, rather than a regulated market, and currently qualifies as an EU SME Growth Market (which confers on companies traded on such markets certain relaxations under the prospectus and market abuse regimes). AIM has a less prescriptive regulatory and governance regime. AIM is the preferred London market for many smaller and/or growth companies looking to list equity securities. Issuers seeking admission to AIM are not required to seek admission to the FCA's Official List.

The PSM and the ISM are also exchange-regulated markets or UK multilateral trading facilities (UK MTFs) for the purposes of UK MiFIR. AIM, the PSM, and ISM are outside the scope of the UK rules implementing the *Transparency Directive (Directive 2004/109/EC)*, however, issuers with securities admitted to trading on AIM, the PSM, or ISM are subject to the *UK Market Abuse Regulation* (which is retained EU law and has applied in the UK since the end of the Brexit Transition Period when it replaced the *EU Market Abuse Regulation (Regulation (EU) 596/2014)* (UK MAR)).

Like the Main Market, the application for admission to trading on the PSM is a two-stage parallel process in which application must also be made to the FCA for approval of the listing particulars and admission of the securities to the FCA's Official List.

The ISM was established in 2017 to provide a simplified admission process for issuers seeking to either restrict their offering to qualified investors or offer a high denomination of debt securities, which therefore affords them the ability to rely on certain exemptions in the prospectus regime. Admission to the ISM does not require that a prospectus or listing particulars are approved by the FCA, but rather, the offering document need only comply with the ISM rules and be approved by the LSE. For these reasons, issuers listing on the ISM are required to comply with a far less stringent regulatory scheme.

For issuers seeking to get equity securities admitted to AIM, no prospectus is usually required because typically the securities are offered only to qualified investors (and as noted above AIM is not a UK-regulated market). However, an AIM admission document must be published that includes the information specified by the *AIM Rules for Companies*: in practice, it will include much of the same information as a prospectus. The issuer must also appoint a suitable firm as its Nominated Adviser (Nomad), who will supervise the preparation of the admission document and ensure the company satisfies the eligibility criteria and will be able to comply with its continuing obligations.

2.3. Listing Segments

As noted above, commercial companies seeking admission of their equity shares to trading on the Main Market or PSM generally undertake a two-stage parallel process in which application is contemporaneously made to list the securities on the FCA's Official List.

An issuer seeking admission to the Official List must decide early in the process whether to seek admission to the "premium" listing segment of the Official List or to the "standard" listing segment. Both segments are available to UK and non-UK-incorporated companies. The eligibility criteria and continuing obligations applicable to premium segment issuers are more stringent than those on the standard segment: in particular, a premium segment issuer must comply with certain rules regulating significant transactions and transactions with related parties, appoint a sponsor for initial admission and for certain subsequent transactions, and report on the extent to which it complies with the *UK Corporate Governance Code* (see Section 3.1.). Premium segment issuers, but not standard segment issuers, are eligible for inclusion in the FTSE UK indices, and therefore usually have greater liquidity in their shares and a lower cost of capital.

3. Key Listing Requirements

The listing requirements for the admission of equity and debt securities vary depending on the market. For instance, the AIM rules are tailored specifically to permit smaller and growing issuers to access public markets, with lower thresholds for admission and less stringent continuous disclosure requirements. The following list outlines some of the key listing requirements for listing equity and debt securities on various markets.

3.1. Equity Capital Markets

The following list outlines some, but not all, of the key listing requirements for premium listings and standard listings and for admission to AIM:

- Domicile: issuers applying for a premium listing, standard listing, or for admission to the AIM may be domiciled in any country. However, to be eligible for inclusion in the FTSE UK indices, the issuer may need to be incorporated in the UK or a "developed country" as defined under the FTSE index rules.
- Minimum Capitalization and Free Float: For premium listings and standard listings, issuers must have a minimum market capitalization of GBP 30 million and a minimum free float of 10%. The minimum capitalization and free float for an AIM issuer are subject only to the Nomad's assessment of appropriateness.
- Historical Financial Information: For a premium or standard listing and for admission to AIM, normally the issuer must disclose in its prospectus or AIM admission document three years of audited financial information prepared in accordance

with UK GAAP, IFRS, or another financial reporting framework recognized by the FCA as equivalent (see Section 4.) For the premium segment, certain additional requirements apply. These include: **(i)** the financial information must represent at least 75% of the issuer's business for that three-year period; **(ii)** in most cases, the balance sheet date must be not more than **(a)** six months before the date of the prospectus and **(b)** nine months before the date the shares are admitted to listing, and **(iii)** the historical financial information must demonstrate that the company has a revenue-earning track record. Some of the requirements relating to historical financial information are modified for companies in the property, mining, and oil and gas sectors and scientific research-based companies.

- Sufficient Working Capital: An issuer applying for a premium or standard listing or for admission to AIM must include in its prospectus or AIM admission document a statement that the issuer and its subsidiary undertakings have sufficient working capital available for the group's requirements for at least the next 12 months
- Sponsor: An issuer applying for a premium listing must appoint a sponsor approved by the FCA to act as an adviser in its application for a premium listing and on certain subsequent events. Among other things, the sponsor will assess whether the company is suitable for listing. Issuers seeking admission to the AIM must appoint a Nomad for admission and throughout the issuer's life on AIM. The Nomad will assess the company's suitability for AIM, supervise the drafting of the admission document, and help the company comply with its ongoing obligations under the *AIM Rules for Companies*.
- Free Transferability: An issuer applying for a premium or standard listing or for admission to AIM must ensure that, as a general rule, its securities are freely transferable, fully paid, and free from any liens or restrictions on the right of transfer. Exceptions are permitted in certain circumstances, such as where restrictions are needed to comply with the issuer's local law or where the company is seeking to limit the number of shareholders domiciled in a particular country in order to ensure it does not become subject to onerous regulations.
- Electronic Settlements: Each market requires that securities are eligible for electronic settlement.
- Additional requirements applicable to premium listing issuers: An issuer that has a premium listing must carry on an independent business as its main activity at all times, and must demonstrate that it exercises operational control over the business it carries on as its main activity. A premium-listed issuer must, broadly speaking, comply with UK rules on offering new shares first to existing shareholders in proportion to their existing holdings (pre-emption rules). If a premium listed issuer has a controlling shareholder (broadly, a person who holds 30% or more of the voting rights in the company), it must enter into a relationship agreement with that shareholder that includes certain prescribed provisions designed to ensure that the controlling shareholder does not take improper advantage of their position, and ensure that the (re)election of each independent non-executive director requires the approval of a majority of the independent shareholders.

3.2. Debt Capital Markets

For the admission of debt securities to the Main Market, the FCA must approve the prospectus and admit the securities to the Official List, while the LSE must admit the debt securities to trading on the Main Market. For the admission of debt securities to the PSM, the FCA must approve the listing particulars and admit the securities to the Official List, while the LSE must admit the debt securities to trading on the PSM. The admission of debt securities to the ISM is significantly different, as the LSE only approves the admission particulars, while the securities are not listed on the Official List.

The following list outlines some, but not all, of the key listing requirements for admission to the Main Market, PSM, and ISM:

- Historical Financial Information: For admission to the Main Market, financial information in the prospectus will have to be prepared in accordance with the requirements in Article 23a of the *UK PR Delegated Regulation* (see Section 4.). For admission to the PSM, where the issuer does not have IFRS accounts, a narrative description of the differences between IFRS and the local accounting principles adopted by the issuer should be provided (although this requirement may be waived). For admission to the ISM, issuers must have accounts prepared in accordance with the issuer's national law and, in all material respects, with national accounting standards or IFRS. The historical financial information should cover a two-year period or such shorter period as the issuer has been in operation.
- Electronic Settlements: Each market requires that securities are eligible for electronic settlement.
- Disclosure Regime: Where a prospectus is submitted for admission to the Main Market, that prospectus is governed by the *UK Prospectus Regulation* (which is retained EU law and has applied in the UK since the end of the Brexit Transition Period when it replaced the EU Prospectus Regulation in the UK) and the related *Delegated Regulations* and rules described below. The level of disclosure required in a debt prospectus will vary depending on the minimum denomination of the debt securities (i.e., the "wholesale regime" applies to debt securities whose denomination per unit amounts to at least EUR 100,000 and the "retail regime" applies to debt securities whose denomination per unit amounts to less than EUR 100,000). Where listing particulars are submitted for application to the PSM, the disclosure rules are based on the wholesale regime of the *UK Prospectus Regulation*. The admission particulars submitted in connection with an application to the ISM should

contain all information prescribed by the ISM Rulebook.

4. Prospectus Disclosure

For the purposes of this section, we will focus on the disclosure requirements applicable to a company seeking listing of its securities on the Official List of the FCA and admission to trading on the Main Market. The *AIM Rules for Companies* are applicable to companies seeking admission to AIM (assuming that they do not conduct an "offer to the public") and in which case as noted above the key disclosure document is an 'admission document'.

When the company is seeking admission to the Main Market the key disclosure document is a prospectus. The prospectus regime in the UK is currently governed by the *UK Prospectus Regulation* and the delegated legislation which includes the *Commission Delegated Regulation (EU) 2019/980* as it forms part of UK domestic law by virtue of the EUWA (the UK PR Delegated Regulation) relevant for the format, content, scrutiny and approval of the prospectus and the *Commission Delegated Regulation (EU) 2019/979* as it forms part of UK domestic law by virtue of the EUWA (the UK Prospectus RTS Regulation) relevant for the technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal. In addition, the UK PR Delegated Regulation imposes specific minimum information requirements for a prospectus as set out in the Annexes of the UK PR Delegated Regulation. The relevant Annexes that will apply in each particular case are prescribed by Articles 2 to 23 of the UK PR Delegated Regulation and will depend on, among others, the type of securities being issued, the type of issue (in certain cases), the nature of the issuer, whether the issuer has a complex financial history or has made a significant financial commitment. The UK Prospectus Regulation, the UK PR Delegated Regulation, and the UK Prospectus RTS Regulation formed part of UK domestic law on and after the end of the Brexit Transition Period by virtue of the EUWA. The UK government was given the power to make statutory instruments to amend "deficiencies" in retained EU law to ensure that it could operate effectively however, it made clear that the amendments were not intended to make policy changes but rather to reflect the UK's position outside the EU and to smooth the transition to this position. As such, the UK Prospectus Regulation, the UK PR Delegated Regulation, and the UK Prospectus RTS Regulation broadly reflect their EU equivalents, although there are a few notable differences between the two regimes. In addition to the UK Prospectus Regulation, the UK PR Delegated Regulation, and the UK Prospectus RTS Regulation, the FCA Handbook also contains the *Prospectus Regulation Rules* (PRRs) which includes content reproduced from the UK Prospectus Regulation and other rules which the FCA is required to provide under the UK Prospectus Regulation.

The UK Prospectus Regulation requires a prospectus to be written and presented in an easily analyzable, concise, and comprehensible form and to contain the necessary information which is material to an investor for making an informed assessment of the assets and liabilities, profits and losses, financial position, and prospects of the issuer and of any guarantor, the rights attaching to the securities, and the reasons for the issuance and its impact on the issuer. It may be published in a single document (which is the typical UK practice) or in three separate documents comprising a registration document (containing information relating to the issuer), a securities note (containing information concerning the securities being offered), and a prospectus summary.

Key information that the UK Prospectus Regulation requires to be included in a prospectus for equity securities is set out below (it should be noted that the requirements for debt prospectuses are generally lighter than the below and vary depending on if the securities are being offered under the wholesale regime or retail regime):

- risk factors informing potential investors of the material risks to the issuer, its industry, and the securities being offered. These should be specific to the issuer or shares being offered, be grouped into a limited number of categories with the most material factor listed first, and, where possible, there should be a quantitative assessment of each risk;
- three years of audited financial information prepared in accordance with the requirements in Article 23a of the UK PR Delegated Regulation. The applicable accounting standards depend on where the issuer is established (that is, the UK, EEA, or elsewhere) and whether the financial year begins before January 1, 2021. Broadly, for financial years beginning before or on December 31, 2020, EU IFRS (subject to certain exceptions) must be used. For financial years beginning on or after January 1, 2021, UK issuers must generally use UK-adopted IAS, while EEA and other issuers have more options;
- details of any significant changes in the financial or trading position of the company since the date of the latest published audited or interim financial information included in the prospectus;
- a working capital statement covering the 12-month period from the date of the prospectus, although in practice the company and its sponsor will normally ask the reporting accountants to cover a period of 18 to 24 months in its working capital exercise as a precaution;
- an operating and financial review (OFR) describing the company's financial condition, changes in financial condition, and results of operations for the periods covered by the historical financial information included in the prospectus. This is similar to, but not quite as broad as, the management discussion and analysis required in a US IPO;

- summaries of material contracts entered into outside of the ordinary course of business by the company's group in the past two years (or longer if material obligations or entitlements remain outstanding);
- details of any significant shareholders of the issuer, whose interest is notifiable under the issuer's national laws;
- details of any related party transactions that the company has entered into during the period covered by the historical financial information and up to the date of the prospectus;
- details of any legal proceedings that the company has been party to in the last year;
- prescribed information on the company's directors and senior management, including remuneration, benefits, and interests in the shares of the company (including share options) and also with respect to the company's corporate governance; and
- responsibility statements from the company, the directors, and any proposed directors, confirming that they accept responsibility for the information contained in the prospectus and that, to the best of their knowledge (having taken all reasonable care to ensure that such is the case), such information is in accordance with the facts and contains no omission likely to affect its import.

An issuer can omit information from a prospectus in limited circumstances where the FCA accepts that disclosure of the information would be contrary to the public interest, seriously detrimental to the issuer (provided the omission would not be likely to mislead the public) or the information is of minor importance in the specific situation and would not influence the assessment of the financial position and prospects of the issuer.

A supplementary prospectus will need to be published if any significant new factor, material mistake, or material inaccuracy relating to the information included in the original prospectus arises during the period after approval of the original prospectus but before the later of the securities being admitted to trading and the closing of the offer period. Significantly, the issuance of a supplementary prospectus triggers withdrawal rights for any investor who had previously agreed to purchase shares or retail debt securities, as the case may be, in the offering. Such rights are exercisable before the end of the second working day after the day on which the supplementary prospectus was published.

5. Prospectus Approval Process

5.1. Competent Authority/Regulator

The FCA is the "competent authority" in the UK for reviewing and approving prospectuses. In addition, the company will need to follow the formal admission requirements set out in the LSE's Admission and Disclosure Standards (ADSs).

For an AIM IPO, an applicant must submit to LSE an admission document disclosing certain information required by the *AIM Rules* and must comply with the admission requirements as set out in Rules 2 to 6 of the AIM Rules (as discussed in further detail below).

5.2. Timeline, review, and approval process

The IPO prospectus review and approval process takes approximately 3-4 months, assuming 3-4 drafts are submitted. Typically, the issuer's counsel will aim to ensure that the first draft submitted to the FCA is an advanced draft in order to minimize the number of comments and revisions to the document. Each subsequent submission will include a blackline showing changes from the previous draft. The process of submitting drafts to the FCA and dealing with comments raised by them is conducted in private.

For debt securities (including standalone and medium-term note program prospectuses and supplementary prospectuses), issuers will benefit from a shorter review process as it takes four clear working days for the FCA to review the initial draft and two clear working days for each subsequent submission. There is also a same-day approval service for certain supplementary prospectuses for debt securities.

The approval of the prospectus can follow once the FCA clears the prospectus of comments.

6. Listing Process

6.1. Timeline, process with the stock exchange

As mentioned above, there is a two-stage procedure for getting securities admitted to the LSE's Main Market: **(i)** the securities need to be admitted to the Official List by the FCA, and **(ii)** the securities need to be admitted to trading by the LSE. Once both processes are complete, the securities are officially listed and admitted to trading on the LSE. This means two sets of fees and two sets of continuing obligations. Trading is a requirement for listing, and vice versa, so if the securities are suspended from trading their listing will also be suspended.

The main requirements for getting securities admitted to listing on the Official List are described in Sections 2. and 3. To get securities admitted to trading by the LSE, the company must comply with the requirements in the LSE's *Admission and Disclosure Standards* (ADS).

Among other things, the issuer must contact the LSE no later than 10 business days before the application for admission is to be considered, using a prescribed form titled *Form 1* and accompanied by a draft copy of the prospectus. The application will, however, be considered provisional at this stage and will only be deemed to be a formal application once the prospectus has been approved by the FCA. The formal application and the final prospectus must be submitted to the LSE by no later than midday at least two business days prior to the considera-

tion of the application for admission. Written confirmation of the number of securities to be allotted must also be provided by no later than 16:00 on the day before admission is expected to become effective unless the LSE has agreed in advance to extend this to no later than 07:00 on the day of admission. In practice, the admission to the trading process runs in parallel with the prospectus approval process and has no effect on the overall timetable of the offering.

For a premium listing IPO, under the Listing Rules, the company's sponsor must make a declaration to the FCA in the prescribed form (Sponsor Declaration) either on the day the FCA is to consider the application for approving the company's prospectus (prior to its approval) or at another time agreed with the FCA in certain circumstances. The Sponsor Declaration will, among other things, confirm that: **(i)** the sponsor has taken reasonable steps to satisfy itself that the directors of the company understand their responsibilities and obligations under the Listing Rules and the *Disclosure Guidance and Transparency Rules* (DTRs); **(ii)** the company has satisfied all requirements of the Listing Rules relevant to an application for listing; **(iii)** the applicant has satisfied all applicable requirements set out in the PRRs; **(iv)** the directors have established procedures which will enable the company to comply with the Listing Rules and DTRs on an ongoing basis; **(v)** the directors have established procedures which will provide a reasonable basis for them to make proper judgments on an ongoing basis as to the financial position and prospects of the company and its group; and **(vi)** the directors of the company have a reasonable basis on which to make the required working capital statement. In order to support this declaration, the sponsor will require the company's reporting accountants and legal advisers to provide it with various comfort letters (which will also be addressed to the company) on the matters covered by the Sponsor Declaration.

For an AIM IPO, the Listing Rules and the ADS do not apply. Instead, the issuer must comply with the AIM Rules for Companies published by the LSE; and the company's Nomad must comply with the LSE's AIM Rules for Nominated Advisers. Rules 2 to 6 of the AIM Rules for Companies require the company to provide the LSE with certain information at least 10 business days before the expected date of admission. This covers similar information to that required by *Form 1* for a Main Market IPO but also includes additional information such as a brief description of the business, the names and functions of directors and proposed directors, and details, insofar as they are known, of any significant shareholders (i.e., holding 3% or more of any class of shares in the company). At least three business days prior to admission, the company must submit a completed application for admission, in the LSE's prescribed form, and an electronic copy of its admission document. These final documents must be accompanied by a declaration from the company's Nomad (Nomad Declaration), similar to a Sponsor Declaration, confirming matters such as the company's appropriateness for admission on AIM and that the *AIM Rules for Companies* and the AIM Rules for Nominated Advisers have been complied with, in particular, that the admission document complies with the content requirements set out in Schedule Two of the *AIM Rules for Companies*. As with the Sponsor Declaration, the Nomad will obtain comfort letters from the reporting accountants and the legal advisers to support its declaration.

In the case of both a Main Market IPO and an AIM IPO, admission to trading becomes effective only when the LSE announces this on a regulatory information service.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

A company with a premium listing on the Main Market must report annually on how it applies the Principles in the *UK Corporate Governance Code* (the Code) and the extent to which it complies with the more detailed Provisions of the Code. Any non-compliance with a Provision must be explained (this approach is known as "comply or explain"). Although compliance with the provisions of the Code is not mandatory, in practice a company may face disapproval from shareholders and even a "corporate governance discount" to its share price if it departs significantly from the Code. The Code covers matters such as the composition and responsibilities of the board and its committees and executive remuneration. Among other things, at least half of the board should be composed of independent non-executive directors. In addition, the chairman should be separate from the Chief Executive Officer, independent on the appointment, and should not act as chair when the committee is dealing with the appointment of his or her successor. In addition, the nomination committee should also comprise a majority of independent non-executive directors, while the remuneration and audit committees should be comprised entirely of independent non-executive directors and have at least three members.

A standard listed company has slightly more flexibility: it must disclose in its annual report which corporate governance code it reports against and the extent to which it complies with the rules of that code, explaining any non-compliance. In practice, most standard-listed issuers that are UK-incorporated report against the Code; but standard-listed issuers that are incorporated elsewhere sometimes choose to report against the corporate governance code of their country of incorporation.

An AIM company similarly must disclose in its annual report which recognized corporate governance code it applies, the extent to which it complies with that code, and an explanation of any departures from it. In practice, most AIM companies report against the *Corporate Governance Guidelines for Small and*

Mid-size Quoted Companies published by the Quoted Companies Alliance.

7.2. Any other Environmental, Social, and Governance ("ESG") considerations

Investors in UK-listed companies are becoming increasingly interested in companies' ESG credentials. For example, the revised *UK Stewardship Code 2020* that took effect on January 1, 2020 specifies that signatories to the Stewardship Code should explain publicly how they have integrated material ESG issues into their stewardship and investment activities.

Both premium and standard listed companies are required to state whether their annual financial report includes all the climate-related financial disclosures recommended by the Task Force on Climate-Related Disclosures (TCFD) and, where it does not do so, an explanation of why not and a description of any steps the company is taking or plans to take in order to be able to disclose such information in the future.

Diversity and inclusion (D&I) is an increasingly important and high-profile issue for all companies, with greater D&I being encouraged in the composition and culture of company boards, senior management, and the wider workforce. UK-incorporated companies above certain size thresholds are subject to various rules in this area, including a requirement to report annually on the difference between rates of pay for men and women performing equivalent roles (gender pay gap reporting). In addition, certain larger premium and standard segment companies must include in their annual report a description of the diversity policy applied to the company's board and executive committee in relation to age, gender, or educational and professional backgrounds; the objectives of the diversity policy; how the policy has been implemented; and the results in the reporting period. If the company has no diversity policy, it must explain why not. For reporting periods beginning on or after April 1, 2022 a company's disclosure of its diversity policy must also cover its remuneration, audit, and nomination committees, and the policy must also cover aspects such as ethnicity, sexual orientation, disability, and socio-economic background.

In addition, for reporting periods beginning on or after April 1, 2022, certain listed companies must include in their annual reports **(i)** details of whether they have met specified targets for at least 40% of the individuals on the board to be women, at least one senior board member (chair, CEO, senior independent director (SID) or CFO) to be a woman and at least one board member to be from a minority ethnic background; and, if not, an explanation of why not; and **(ii)** in a standard format, numerical data on the ethnic background and gender identity or sex of the individuals on the company's board and its executive management.

From a debt capital markets perspective, most ESG bonds are aligned with principles or standards such as the International Capital Market Association (ICMA) *Green Bond Principles*, *Social Bond Principles, Sustainability Bond Guidelines*, or *Sustainability-Linked Bond Principles*. They provide guidance on ESG bonds and make certain recommendations, including in relation to reporting.

ESG Bonds listed on the LSE may be admitted to the LSE's SBM, which includes several segments for, amongst others, green bonds, social bonds, sustainability bonds, and sustainability-linked bonds. Issuers would need to comply with certain requirements (for example, a requirement to provide a second-party opinion for use of proceeds ESG bonds) in order to be eligible for the SBM.

8. Ongoing Reporting Obligations (Life As A Public Company)

Listed companies are required to comply with various ongoing reporting obligations, which vary based on whether the securities are included on the Official List, the market on which the securities trade, and the nature of the securities offered. Once a company has been admitted to trading on the Main Market of the LSE and listed on the Official List of the FCA, it will be subject to an additional layer of regulation. Even where the company has not been listed on the Official List, or where it has been admitted to trading on the PSM, AIM, or ISM, certain ongoing reporting obligations will apply.

In addition to the statutory and common law provisions applicable to all UK companies, there are a variety of rules that apply to issuers on UK-regulated exchanges, including the Listing Rules, the DTRs, Corporate Governance Rules, the PRRs, and the ADSs. Issuers admitted to the premium or standard listing segments must comply with each of the above obligations, while issuers on the PSM must comply only with the Listing Rules, the DTRs, and the PRRs. These rules do not apply to AIM or ISM companies.

Moreover, both listed and unlisted companies will need to ensure that they meet the ongoing obligations under UK MAR, as a breach of UK MAR by an individual or legal person is a civil offense punishable by a fine and administrative sanction. As such, companies admitted to the ISM must comply with UK MAR, although such companies are not obliged to comply with the Listing Rules, DTRs, Corporate Governance Rules, or the PRRs. Instead, such companies must comply with the rules prescribed under the ISM Rulebook.

8.1. Annual and interim financials

For all companies with listed shares, and those with a retail listing of debt, the rules on financial statements are set out in the DTRs. The DTRs provide that an issuer must publish audited annual accounts within four months of its financial year end and unaudited accounts for the half-year period within three

months of the end of that period. Both annual and half-yearly accounts must comply with the requirements set out in the DTRs. Both annual and half-yearly financial statements must be prepared in accordance with the UK-adopted IFRS or an accounting framework recognized by the FCA as equivalent.

Issuers of wholesale debt and issuers who only have securities listed on the PSM or ISM are subject to a somewhat more relaxed regulatory framework which provides an extended six-month period for issuers to produce their annual reports and permits the issuer to prepare their reports in accordance with national accounting standards. Issuers on the ISM and PSM are exempted from the requirement to prepare interim reports.

8.2. Ad hoc disclosures and other requirements

Periodic reporting requirements for companies listed on the LSE's main markets vary depending on the market. The following list outlines some, but not all, of the key periodic reporting requirements for premium and standard listed companies and companies with securities admitted to AIM, the PSM, or ISM:

- Cancellation: 75% shareholder approval is required for the cancellation of premium listed securities and for securities admitted to AIM. No shareholder approval is required to cancel the listing of securities admitted to other listing markets and segments.
- Transfer Between Listing Categories: 75% shareholder approval is required to transfer securities from the premium to the standard segment.
- Prospectus requirements: Under the UK Prospectus Regulation, a prospectus must be published where either **(i)** transferable securities are offered to the public in the UK; or **(ii)** transferable securities are admitted to trading on a UK-regulated market. In the case of each trigger, various exemptions are available. In practice, a company with securities admitted to the Main Market will usually need to publish a prospectus after its initial admission only where it does large secondary fundraising (e.g., where it issues shares that represent over 20% of its existing ordinary share capital, typically in a pre-emptive offer to existing shareholders) or where it is a premium listed company and it enters into a transaction that qualifies as a "reverse takeover." An AIM company will usually need to publish a prospectus after its initial admission only where it does a pre-emptive offer to existing shareholders. Companies with securities admitted to the PSM or ISM do not usually need to publish a prospectus after their initial admission.
- Significant Transactions:

Premium-listed companies must announce certain details of any transaction that exceeds 5% in any of the class tests (which compare the size of the assets being bought or sold to those of the listed company and its group as a whole). Where the transaction exceeds 25% in any class test, the company must obtain approval from a majority of shareholders before the transaction completes. For this purpose, the company must send a circular to its shareholders containing certain prescribed information, and obtain advice from a sponsor. Certain transactions with related parties must be announced and, where the transaction exceeds 5% in any of any class tests, shareholder approval must be obtained. Again, the company must send a circular to its shareholders containing certain prescribed information and obtain advice from a sponsor.

Standard listed companies must announce any transaction with a related party that exceeds 5% in any class test, but shareholder approval is not required for significant transactions.

An AIM company must announce details of any significant transaction that exceeds 10% in any class test and any transaction with a related party that exceeds 5% in any class test. However, shareholder approval is required only if disposals over a 12-month period exceed in aggregate 75% in any class test or if the company proposes to enter into a transaction that constitutes a "reverse takeover."

There are no specific disclosure requirements for significant transactions for ISM or PSM issuers.

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CEE LEGAL MATTERS COMPARATIVE LEGAL GUIDE: CAPITAL MARKETS 2023

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1. Market Overview

The Ukrainian capital market faced significant disruptions in the first half of 2022 due to strict restrictions imposed by the National Securities and Stock Market Commission of Ukraine (the NSSMC). From February 24 to August 8, 2022, the NSSMC suspended the placement, circulation, and redemption of all securities, resulting in a complete cessation of market activity during this period.

However, after lifting all the restrictions, allowing the resumption of normal market activity, towards the end of the year, on December 29, 2022, the national regulator made the decision to allow for the first time the circulation of securities included in the S&P 500 stock index on the territory of Ukraine.

Despite the disruption caused by the restrictions, there is optimism for a significant increase in market activity in the years following the post-war reconstruction.

It is worth noting that the largest volume of trading in financial instruments on organized capital market operators during the mentioned period was recorded with government bonds, amounting to UAH 152.83 billion (95.14% of the total volume of trading in financial instruments on organized capital market operators during January-December of the current year).

In addition, during January-December 2022, there was a consolidation of securities trading on two organized capital market operators, PERSPEKTYVA and PFTS (the First Stock Trading System), which accounted for 90.40% of the value of trading in financial instruments.

2. Overview of the local stock exchange and listing segments (markets)

As a point of general information, it is worth noting that in accordance with best international practices, in the summer of 2021, the option to trade relevant assets on multiple platforms was introduced. There are three different types of trading platforms available.

2.1. Regulated market

First, there is the regulated market, which is traditionally used by larger players. It is a system managed by a regulated market operator that allows third parties to purchase and sell financial instruments, such as derivative contracts, in accordance with non-discriminatory rules. The market is registered in accordance with the law and provides a range of conditions, including collecting and disseminating information regarding financial instruments available for trading, facilitating trades, and centrally performing and executing legal transactions.

2.2. Non-regulated market

Second, there is the multilateral trading facility (MTF), which is an alternative self-regulatory platform for smaller businesses. This platform is managed by an MTF operator and allows third parties to purchase and sell financial instruments, such as derivative contracts, based on non-discriminatory rules established by the NSSMC. The platform ensures the conclusion of corresponding agreements in accordance with the law.

Finally, there is the organized trading facility (OTF), which is a multilateral system that is not a regulated market or MTF. It is managed by an OTF operator and allows third parties to purchase and sell financial instruments, such as derivative contracts, based on the discretionary rules of the OTF operator. The platform ensures the conclusion of corresponding agreements.

2.3. Market operators

All market operators are required to obtain a license from the NSSMC. Moreover, foreign entities are entitled to submit documents and obtain such a license, which could potentially make the Ukrainian stock market open to competition.

Foreign legal entities that hold 10% or more of a Ukrainian legal entity's statutory capital and plan to engage in professional activities in capital and commodity markets must submit specific documents to the NSSMC to obtain a license.

These documents include:

- a copy of the decision of the authorized body of the foreign legal entity;
- written permission to participate in Ukrainian markets (if required by the foreign entity's home country);
- an extract confirming registration;
- and financial statements for the last three years (with audit reports, if available).

If foreign individuals hold 10% or more of the Ukrainian legal entity's statutory capital and plan to engage in professional activities in capital and commodity markets, they need to submit the same documents, except for the written permission of the authorized supervisory authority.

3. Key Listing Requirements

Ukrainian law provides that the listed securities are the securities that are listed on the regulated market and were included in the stock register as corresponding to the listing requirements.

3.1. ECM

For shares to be listed on the regulated market, the issuer must meet the following requirements at a minimum:

- it has existed for at least three years;
- its minimum equity capital amounts to UAH 300 million (approximately EUR 7.75 million);
- its minimum annual net income from the sale of goods, works, and services for the last fiscal year amounts to UAH 300 million (approximately EUR 7.75 million) (excluding banks);

- its minimum market capitalization amounts to UAH 100 million (approximately EUR 2.6 million);
- the portion of its free float shares constitutes 10% of the share capital or is valued at UAH 75 million (approximately EUR 2 million);
- the number of its shareholders not less than 150;
- it has an officer who holds the position of a corporate secretary; and
- it conducts an annual audit under international auditing standards involving an independent external auditor for at least two years.

The regulated market may also create a distinct segment for non-listed shares of new companies, which may appeal to investors seeking to support medium-sized businesses in Ukraine. However, admission to this segment is contingent on the issuer meeting the following requirements:

- the issuer has existed for at least one year (or at least six months provided that all other requirements during the such period have been met);
- minimum market capitalization is UAH 20 million (approximately EUR 520,000);
- minimum of 50 shareholders;
- the issuer conducts an annual audit under international auditing standards;
- the issuer is encouraged to follow corporate governance principles and international financial reporting standards.

3.2. DCM

In order for debt securities to be added to the stock register, the following conditions must be met:

- the issuer should exist for at least two years (subject to certain exceptions);
- the net assets value of the issuer and/or the security provider should be at least UAH 300 million (approximately EUR 7.75 million);
- the net profit from the sale of goods, works, or services of the issuer and/or the security provider should be not less than UAH 300 million (approximately EUR 7.75 million) for the last year (except for the banks);
- the issuer and/or the security provider should not have losses for the previous financial year;
- no default has occurred;
- the nominal value of the securities issue should be equal to at least UAH 100 million (approximately EUR 2.6 million).

The above requirements do not apply to the issue of:

- Ukrainian government bonds;
- municipal bonds; and
- bonds of international financial organizations.

Municipal bonds must have a nominal value exceeding UAH 50 million (EUR 1.3 million) in order to be added to the stock register.

Ukrainian government bonds and bonds from international financial organizations can be added to the stock register without the need for listing procedures.

The regulated market may impose additional requirements for securities to be included in the stock register, such as adherence to corporate governance principles or stricter financial statement requirements. The regulated market also monitors compliance with the listing requirements and may decide to delist securities if they fail to comply.

4. Prospectus Disclosure

4.1. Regulatory regime (EU Prospectus Regulation or similar) – equity

The prospectus should provide the investors with all the necessary information to allow an investor to make an investment decision on the purchase of the respective securities.

Ukrainian laws provide that a prospectus should contain three parts: **(i)** a summary, **(ii)** a registration document, and **(iii)** a document on the securities. The prospectus may consist of one or more separate documents.

The summary should contain important characteristics and risks related to the issuer, its securities, or any person providing security for the issuer in the respective issuance. It should be presented briefly and clearly to assist investors in making decisions about potential investments in such securities, in Ukrainian language or English and Ukrainian for foreign issuers. The summary should include information about the significant features of the securities and the risks associated with the issuer, and any person providing security for the relevant issuance, and should not contradict other parts of the prospectus.

The summary should also include a warning that:

- it should be regarded as an introduction to the prospectus;
- any decision by an investor regarding investment in securities should be based on the results of the analysis of the prospectus as a whole;
- the persons who signed the summary are responsible only if the summary contains incorrect, inaccurate, or contradictory information compared to other parts of the prospectus.

The summary cannot contain references to other documents except for other parts of the same prospectus.

The information that has to be disclosed in the prospectus depends on the type of the offered securities.

4.2. Regulatory regimes (EU Prospectus Regulation or similar) – debt

N/A – Ukrainian legislation does not provide for distinct prospectuses for ECM and DCM.

4.3 Local market practice considerations

When securities are publicly offered, the information in the prospectus and any subsequent changes must be revealed through several methods, including:

- releasing the prospectus and its changes in the official printed edition of the NSSMC;
- adding the prospectus and changes to the NSSMC's public information database;
- posting the prospectus and changes on the issuer's website; and
- posting the prospectus and changes on the relevant regulated market's website.

4.4. Language of the prospectus for local and international offerings

The prospectus, which must be prepared in Ukrainian, should also include any referenced documents in Ukrainian. Foreign issuers must also prepare their prospectus in Ukrainian, and at their discretion, in English or other official languages of European Union member states where the securities are offered, publicly offered, or traded on the regulated market.

5. Prospectus Approval Process

5.1. Competent authority/regulator

The process for approving a prospectus involves submitting the prospectus and all necessary documents to the NSSMC.

5.2. Timeline, review, and approval process

The NSSMC then approves or refuses to approve the prospectus within a specified timeframe, which is 20 business days or 10 business days if the issuer has securities admitted to trading on a regulated stock market or has made a public offer of such securities.

If the prospectus and/or other submitted documents do not comply with legal requirements, contain incomplete or inaccurate information, or have discrepancies, the NSSMC informs the applicant promptly, but within the timeframes mentioned above, and clearly defines the changes, additions, and/or explanations that need to be submitted. The deadline for approval starts again from the day the requested documents and/or explanations are received by the NSSMC.

Approval of the prospectus does not guarantee the value of the securities, and the NSSMC is only responsible for the completeness of the information and compliance with legal requirements. The person who prepares the prospectus is responsible for the accuracy of the information provided.

The NSSMC establishes the list of documents required for approval and the approval procedure. It may refuse to approve the prospectus if the submitted documents do not comply with legal requirements or contain inaccuracies or incompleteness.

The decision on the approval of the prospectus is published on the NSSMC's official website within one business day after its adoption.

6. Listing Process

6.1. Timeline, process with the stock exchange

The primary placement of the securities can be made either by way of:

- a public offering; or
- a private offering.

Before a public or private offering of securities, the process of issuing securities takes place. For example when issuing shares the process involves various steps, including the adoption of a decision on the issue of shares, registration of the issue of shares with the NSSMC, assigning shares to the ISIN code, and obtaining the LEI code, placement of shares, approval of the results of the issue of shares, the introduction of changes to the charter of the joint-stock company related to the increase of the authorized capital of the company, registration of changes to the charter of the joint-stock company in the state registration authorities, and registration of the report on the results of the issue of shares with the NSSMC.

Public Offering

A public offering is an offer made to an undefined group of people to purchase securities from the offeror at a price and under the conditions specified in the offer. The offer must comply with the requirements established by the NSSMC and include the terms and procedures for acquiring the securities and the duration of the offer. The offeror can be the issuer of the securities, an entity offering its own securities for sale, or the issuer with respect to redeemed securities.

Submitting an application for admission to trading on a regulated stock market is considered a public offer while submitting an application for admission to trading on the MTF or OTF is not considered a public offer. If an offer is addressed to a defined group of unqualified investors numbering 150 or more persons, it is considered a public offer.

In most cases, a public offer must be accompanied by a prospectus approved by the NSSMC, which contains information about the securities being offered, the offeror, and other necessary information. However, certain exceptions apply where a prospectus is not required, such as when a public offer is made exclusively among qualified investors or when the nominal value of the securities exceeds the limit set by the NSSMC.

Other exceptions include when the issuance of securities is

guaranteed by the state or local self-government bodies, or when the securities are being issued for the conversion into shares of another type and/or class of the same issuer. The issuance of government securities and local loan bonds is also exempt from prospectus requirements.

When submitting an application for the admission of securities for trading on a regulated stock market, certain conditions must be met, such as the securities being already admitted to trading on the regulated stock market of the market operator or the conversion of securities from other types. Additionally, regular trading of the securities must be taking place on another regulated stock market, and the person submitting the application must publish a document about the securities in accordance with the requirements of the NSSMC.

Private Offering

A private offering is a process of placing securities within a predetermined group of individuals, wherein the number of non-qualified investors must not exceed 150. It is worth noting that the preparation of a prospectus is not mandatory for private placement.

The private offering of debt securities typically spans a period of two to five months. The duration of bond placement via private offering is generally shorter than that of public offerings due to the absence of the prospectus preparation requirement. The private placement of securities follows a process similar to public placement, albeit without the necessity of preparing and obtaining approval for the prospectus.

7. Corporate Governance

7.1. Corporate governance code/rules (independent director, board and supervisory composition, committees)

Listed companies must adhere to strict regulations pertaining to corporate governance, which necessitate the formation of a supervisory board that includes no less than one-third of independent directors. Additionally, mandatory committees, such as the audit committee and remuneration committee, must be established. The supervisory board is accountable to various regular reporting requirements, which are used to evaluate its performance. Also, it is a mandatory requirement to establish the position of a corporate secretary, who is responsible for ensuring the effective current interaction of the company with shareholders and other investors, coordinating the actions of the company to protect the rights and interests of shareholders, maintaining the effective work of the board of directors or the supervisory board, and performing other functions defined by law and the charter of the joint-stock company.

In the first half of 2020, the NSSMC introduced the *Corporate Governance Code of Ukraine* (Code), which reflects the latest developments in environmental, social, and corporate governance practices for securities issuers. Although compliance with the Code is not mandatory, it is regarded as a soft law instrument in Ukraine, as in many other countries. Nevertheless, companies that plan to enter the capital markets are strongly encouraged to adhere to the Code.

In addition to fulfilling legal obligations, the Code sets forth best practices aimed at providing potential investors with the necessary assurance. The document explicitly outlines the responsibilities of shareholders, the supervisory board, and the executive body in managing the company, while also highlighting the role of other stakeholders in achieving sustainable development.

7.2. Any other ESG considerations

N/A

8. Ongoing Reporting Obligations (Life as a Public Company)

Listed companies are obligated to disclose information as per the regulations and guidelines established by the Law and the regulatory acts of the NSSMC. Such disclosure must be made in either the Ukrainian language or English and Ukrainian, in the case of foreign issuers.

The extent of these requirements is broad and covers numerous aspects of the company's operations, such as the approval of significant transactions, alterations to the composition of company officers, decisions to decrease share capital, the commencement of insolvency proceedings against the company, and changes in shareholder rights, among other things.

8.1. Annual and interim financials

Issuers are required to disclose information periodically, including annual and interim disclosures.

Annual information about the issuer is prepared based on the calendar year, while the first reporting period for issuers may be less than 12 months and is calculated from the date of state registration until December 31 of the reporting year for issuers (excluding foreign ones).

Annual information is considered regulated information and must be disclosed by the issuer no later than April 30 of the year following the reporting year, except for the report on payments to the state, which must be disclosed no later than June 30 of the year following the reporting year. This information is posted on the issuer's official website and is publicly available for at least 10 years after its disclosure.

Interim information, on the other hand, is prepared on a quarterly basis. The reporting period for the preparation of interim information is the quarter, and it is prepared as of the end of the last day of the quarter.

Interim information is also regulated information and must be disclosed by the issuer no later than the last day of the month

following the reporting period, except for the interim consolidated financial statements, which must be disclosed no later than the last day of the second month following the reporting period. This information is also posted on the issuer's official website and is publicly available for at least 10 years after its disclosure.

8.2. Ad hoc disclosures

The disclosure of ad hoc information pertains to unique information that has altered from the regular disclosure. This type of information encompasses details such as authorization of significant transactions, modifications to the composition of the issuer's officers, the issuer's resolution to reduce the share capital, the commencement of bankruptcy proceedings against the issuer, changes in the rights of the issuer's shareholders, and other relevant information.

Ad hoc information must be disclosed in the form of a notification on either:

- the issuer's website, whose securities are authorized to trade on the regulated market;
- the publicly accessible information database of the NSSMC; or
- through an individual who is dealing with the disclosure of regulated information on behalf of stock market participants.

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