

## **Decision of the Sanction Commission of BX Swiss AG**

pertaining to the violation of the ad hoc reporting obligation in the event of criminal proceedings being instituted against members of the board of directors in the context of a secondary mandate.

Pursuant to Clause 17 of the Listing Rules, the Sanction Commission of BX Swiss AG publishes the sanction decision below against one of its companies with primary listing.

### **Background**

In the present case, members of the board of directors of the defendant company were accused of criminal mismanagement in the context of a secondary mandate. In December 2018, the chairman of the defendant company's board of directors informed the BX about pending criminal charges, which had been brought against the chairman and one other member of the board in October 2018.

Responding to questions from the BX in January 2019, the defendants then confirmed that criminal proceedings had actually been instituted as of October 2018. Although the criminal proceedings were not explicitly directed against the two members of the board of directors but against unknown offenders, the two members were suspected of being jointly responsible for the offences committed. BX Swiss therefore requested the company to publish an ad hoc notice about the ongoing criminal investigation.

What has to be considered as price-relevant fact in this case is the fact that the initiated criminal investigation was given the potential to undermine the trust in the management of the company itself. The failure to publish a public notice about a criminal investigation being initiated against two members of the board of directors constitutes a violation of the ad hoc disclosure obligation.

### **Decision of the Admission Office of BX Swiss**

It should be noted that not the natural persons but the company itself is sanctioned when the company is accused of having violated the rules deliberately or of not having made all reasonable efforts to enforce their compliance.

The Sanction Commission of BX Swiss concluded that the omissions identified in this case constitute moderately severe violations of the rules. A fine of CHF 5.000 and a reprimand therefore seemed appropriate.