

## **TRANSPARENCY-DIRECTIVE OF GREENCELLS GMBH**

Status: 12.12.2022

Responsible: CFO (u.f.n. in proxy for Manager Compliance)

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## 1. EXECUTIVE SUMMARY AND OVERVIEW

As an issuer in the Open Market segment of Deutsche Börse AG (Regulated Unofficial Market of the Frankfurt Stock Exchange), Greencells GmbH and its managers and employees must comply with numerous transparency obligations<sup>1</sup>.

### OVERVIEW:

- (Potential) insider information must be identified and reported to the management without delay. Greencells GmbH must publish insider information that directly affects it without delay in the form of an ad hoc announcement.
- Ad hoc announcements are subject to requirements with regard to content and immediate publication. Under certain circumstances, it is possible to postpone publication (so-called self-exemption).
- Insider lists must be kept in which persons who have permanent or temporary access to insider information of Greencells GmbH are included.
- Directors' dealings of so-called leading persons (as a rule members of the management as well as persons closely associated with them) must be reported to Greencells GmbH within tight deadlines after execution of the transaction so that prescribed publications can be made in due time. The management persons and the persons closely related (closely connected) to them must be kept in a separate list.
- Close periods (trading prohibitions) apply temporarily to management persons.

### CONTACT PERSON FOR QUESTIONS:

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<sup>1</sup> For reasons of better readability, the masculine form is used for personal designations and personal nouns in this document. In the interests of equal treatment, the corresponding terms apply to all genders. The abbreviated form of language is for editorial reasons only and does not imply any valuation.

## 2. TRANSPARENCY AS A FOLLOW-UP OBLIGATION

The objectives of financial communications are to,

- to ensure a presentation on the capital market that takes appropriate account of investors' need for information;
- to create a basis for trust and credibility through fair information ("fair disclosure");
- to strengthen awareness and image on the capital market through credibility and transparency;
- to enable the use of the capital market to strengthen the equity or debt capital base in the event of capital requirements; and
- avoid damage to reputation and severe penalties in the event of non-compliance with obligations (monetary).

As a company with listed securities (Green Bond), Greencells GmbH has to comply with special related (European and German) laws and regulations, which are prescribed and supervised by European and German authorities (e.g. BaFin, ESMA). However, due to the listing in the Open Market segment of Deutsche Börse AG (Regulated Unofficial Market of the Frankfurt Stock Exchange), the Green Bond of Greencells GmbH is not considered as a security admitted to the Regulated Market of the Frankfurt Stock Exchange. Therefore, not all requirements are relevant that, for example, issuers in the General or Prime Standard (EU-regulated markets) have to fulfill.

Among the most important sets of regulations is the EU Market Abuse Regulation ("MAR"), which replaced numerous capital market regulations of the individual member states in 2016. Many of the already stricter regulations (e.g. insider law, ad hoc publicity, directors' dealings) now also apply for the first time to Greencells GmbH as a so-called issuer within the meaning of Article 3 (1) No. 21 MAR. The correct handling of insider lists and directors' dealings are of particular importance. In particular, MAR obliges anyone who comes into contact with insider information to handle this information responsibly.

This Transparency Policy explains essential principles and serves as a guideline for the employees of Greencells GmbH as well as the management and employees of the sister company, Greencells Group Holdings Ltd. and their respective affiliated companies (Greencells GmbH and Greencells Group Holdings Ltd. and their affiliated companies together the "Group") for their own actions. This is because all managers and employees of the Group should be aware that a breach of transparency regulations can have significant consequences under criminal, civil and

labor law, and could also give rise to a claim for damages by Greencells GmbH against the employee.

**Notice:**

In this context, it is pointed out that only the management is authorized to make public statements on business development and forecasts as well as strategic decisions. External inquiries in this regard, for example from the media or investors, must be directed immediately to the Investor Relations department, Alexandra Roger-Machart.

**3. INSIDERINFORMATION****3.1 Definition Insiderinformation**

According to Article 7 (1) a) MAR, inside information is:

**"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 price of those financial instruments or on the price of related derivative financial instruments (...)"**.

The essential features of insider information are thus the characteristics:

- **not publicly known**
  - This refers to all information that is not accessible to a broad investor audience.
- **Precise information**
  - Circumstances (events) that already exist or that can reasonably be expected to occur in the future and that are specific enough to allow a conclusion to be drawn about the possible and possibly significant price impact.
- **directly/indirectly concerning the issuer or a financial instrument**
  - This refers to circumstances (events) that directly or indirectly affect Greencells GmbH or its financial instruments, i.e. the Green Bond. Indirectly, Greencells GmbH could be affected, for example, by any negative business events at the level of the sister company.

- **Significant potential to influence share price when publicly announced**

- Insider information is deemed to exist if the circumstances on which the information is based are likely to have a significant influence on the price of the green bond if they become known to the public.
- According to Art. 7 para. 4 subpara. 1 MAR, information is information "which a reasonable investor would be likely to use as part of the basis for his investment decisions." This is the case if there is an incentive to buy or sell and the transaction appears worthwhile to the reasonable investor. It is irrelevant for the existence of the characteristic of the price-influencing potential whether it is certain from an ex ante point of view whether the price will develop upwards or downwards when it becomes known - the price direction does not have to be predictable. A transaction is deemed to be profitable if the expected return less transaction costs exceeds the opportunity costs, i.e. the return that would be achieved by an investment in financial instruments with comparable risk. A transaction can also be considered profitable if the potential return is an avoided price loss.
- This requires an assessment of the extent to which the price is likely to be affected if the relevant circumstances or events become known. In order to be able to estimate this approximately reliably, it is necessary to have a profound knowledge of the expectations of the capital market. As a rule, insider information will have the potential to influence the share price in particular if it relates to circumstances or events that deviate significantly from the expectations of the capital market.

**Examples of potential insider information or possible reasons for an ad hoc announcement in connection with the Green Bond:**

According to BaFin, the assessment of which information has a significant potential to influence the share price and is therefore to be classified as inside information must also be made on the basis of the class of financial instruments admitted to trading on the stock exchange. Circumstances that can justify a significant potential to influence the price of bonds (such as the green bond) are, in principle, less likely to be assumed than in the case of exchange-traded shares.<sup>2</sup>

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<sup>2</sup> BaFin, Emittentenleitfaden, Modul C (Stand: 25. März 2020), Abschnitt I.2.1.5.14, S. 22.

If Greencells is no longer able to meet the obligations associated with the green bond (e.g. repayment, interest payment) or if the debt service would be impaired due to the circumstances on which the information is based.

- Business figures, forecasts and adjustments to the forecast (in particular "profit warning"),
- significant extraordinary income/expenses (e.g. gains/losses on the disposal of significant parts of or entire operations or significant equity interests, impairment losses due to an extraordinary event, e.g. closure of operations, expropriation or destruction of operations due to catastrophes, extraordinary loss events, e.g. caused by embezzlement, government grants for the restructuring of industries, if the occurrence of these events is likely to jeopardize the debt service under the Green Bond.
- M&A transactions, if the debt of Greencells GmbH would be significantly increased as a result.
- change of management,
- administrative and legal proceedings as well as legal disputes, if of particular importance,
- restructuring of the business model, e.g. through the discontinuation or addition of old/new core business areas,
- significant changes in the shareholder structure,
- control and/or profit and loss transfer agreements or loss absorption agreements,
- conclusion, amendment or termination of particularly significant contractual relationships, e.g. receipt/loss of a major order, purchase/sale of a significant asset (e.g. real estate, subsidiary),
- conclusion of significant financing agreements, termination of important loans or their prolongation at new conditions that deviate significantly from the old negative conditions (in particular interest rate, stricter covenants, comprehensive provision of collateral),
- capital market measures for corporate financing, e.g. in the form of (further) bonds or increase in existing bond, possibly issue of convertible bond,
- suspicion of balance sheet manipulation, announcement by the auditor of refusal to issue the annual financial statements, surprise change of auditor,
- default of significant debtors/customers,



- significant changes in a rating with respect to the issuer or the financial instruments issued by the issuer,
- sudden issuer-specific, significantly negative developments (raw material procurement, purchasing, availability, prices),
- electricity price developments with significant effects on project market values or
- application by Greencells GmbH for revocation of the admission of the securities to trading on the stock exchange.

The above overview is not exhaustive. Based on the specific circumstances of the individual case, other circumstances may also constitute insider information; it is not possible to make reliable statements without examining in each individual case which circumstances are relevant to the share price. In cases of doubt, the existence of insider information must be assumed (as a precaution). The following steps can be taken to assess the relevance to the share price:

- First of all, it must be examined whether the circumstance, considered on its own at the time of its occurrence (ex ante), can have a significant potential to influence the share price according to general experience. This could be, for example, a profit warning or financial restructuring.
- In addition, the specific circumstances of the individual case existing or foreseeable at the time the circumstances arise - in particular the generally reduced price-influencing potential of information in the case of no-par value bonds compared with shares, which may increase or decrease the price-influencing potential - must also be taken into account.

In the case of bonds, the potential for influencing the price, e.g. of business figures, may be significantly reduced. However, if, for example, a significant increase in sales or alternative key performance indicators (e.g. EBITDA) or a (significant) (double-digit) loss compared to the previous year occurs when the (consolidated) financial statements are prepared, this represents new information; however, the suitability for significantly influencing the share price depends decisively on which information is available or publicly known or which forecasts have already been published by the company before the preparation of the (consolidated) financial statements and were therefore already expected by the market. For information on the relevance of financial figures to the share price, see section 4.3 below.



**Future circumstances or events as inside information**

Pursuant to Art. 7 (2) sentence 1 MAR, future circumstances or events may constitute inside information if they are (sufficiently) precise, i.e. if it can be reasonably expected that they will occur in the future (see above). According to BaFin, the latter is the case if there is an overwhelming probability of the occurrence of such circumstances or events (50% + x), i.e. an overwhelming probability. This requires an assessment of all available circumstances and information, taking into account the results with which the company has concluded comparable transactions in the past and what speaks in favor of or against this in the specific case (e.g. has the company regularly managed to bring planned acquisitions to a successful conclusion or not and what special features exist in the specific case).

The information must also be specific enough to allow a conclusion to be drawn about the possible impact on the prices of the financial instruments concerned. Only vague or general information that does not permit a conclusion as to its possible effect on the price of the financial instruments concerned is not precise. It is irrelevant for the existence of "precise" information in which direction the possible effect on the price of the financial instruments concerned takes place.

**Intermediate steps as inside information**

In the case of stretched facts or multi-stage decision-making processes (e.g. M&A transactions, requirement for approval by the advisory board), it should be noted that insider information can be not only the final event itself, but also certain intermediate steps associated with the bringing about or production of this future circumstance or event. An intermediate step can also be insider information if it fulfills the criteria of insider information in itself.

BaFin emphasizes that during the entire process it must be examined whether intermediate steps that have already occurred or are imminent, or the final event itself as a future event, fulfill the quality of insider information. When assessing whether an interim step is relevant under insider law, a fundamental distinction must be made between interim steps that derive their quality as insider information from themselves and interim steps that derive their price relevance from the future final event:

- (1) An intermediate step which in itself constitutes inside information (e.g. fundamental change in strategy, declared official fatigue of the CEO) must be published immediately in accordance with the general rules of MAR, unless a postponement is possible (see section 5). Such

an intermediate step has an independent relevance under insider law, detached from the probability of occurrence of the final event (cf. Art. 7 para. 3 in conjunction with para. 1 MAR).

- (2) In the case of intermediate steps which, on the other hand, derive their insider law relevance primarily from their reference to a future final event, the question of whether there is already a significant potential to influence the share price must also be appropriately examined and assessed by the issuer.

With regard to the assessment of interim steps, which primarily derive their relevance under insider law from their reference to a future final event, BaFin assumes that the more significant and probable the final event is and an overall consideration of the past and future circumstances, taking into account the respective market situation, suggests that a reasonable investor would already use this interim step for his own benefit, the more likely it is that the potential to influence the share price will be assumed.

Insofar as the desired final event is still improbable, an interim step will regularly lack the suitability to significantly influence the share price. In this case, therefore, there will generally be no intermediate step insider information. If this should nevertheless be the case, it must be examined whether a postponement of the ad hoc publication (so-called self-exemption) can be considered if the relevant requirements are met (see section 5).

### **3.2 Dealing with insider information at Greencells GmbH**

- **Identify possible insider information**

All managers and employees must ensure that they recognize circumstances and events that could qualify as insider information accordingly and handle them responsibly: Absolute confidentiality must be maintained.

- **Communicate potential inside information to management**

The possible insider information must be communicated immediately to the management. This communication must be made immediately without delay (even outside normal business hours) and in a manner that

- Enables management to arrive at an accurate assessment of the circumstances and/or
- makes it possible to obtain the opinion and advice of third parties on the basis of the facts.

The employee who reports the possible inside information to the management must provide his or her full contact details in case there are any queries on the part of the management.

**Management contact details:**

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- **Check possible insider information**

The management will examine the information available to it and, if necessary, decide after consultation with third parties whether it actually constitutes insider information.

In this context, it must also be examined whether the process in question is a “protracted process”. This could be, for example, an M&A project that stretches from the strategy decision to the engagement of consultants for the identification of target companies, due diligence, contract negotiations, management resolutions as well as other process steps. The process as a whole, but also each individual one of these stages, can – but need not – be insider-relevant.

If the examination has shown that insider information exists, further steps must be taken. These can be either ad hoc publicity or self-exemption, combined with the creation of a project/incident-related insider list.

### **3.3 Insider trading ban**

The insider (trading) prohibition or the prohibition of insider trading is understood to mean various prohibited actions in connection with insider information, namely:

- engaging in insider trading and attempting to do so,
- recommending third parties to engage in insider trading or inducing third parties to engage in insider trading.

According to Article 8 (1) sentence 1 MAR, insider dealing exists if

**"a person possesses inside information and, using it for his own account or for the account of another person, acquires or disposes of, directly or indirectly, financial instruments to which the information relates."**

It is presumed that the person who has knowledge of inside information also uses it when carrying out the insider transaction (recital 24 MAR). The prohibition applies to any person who has inside information because he:

- a) belongs to the administrative, management or supervisory body of the issuer (...);
- b) has an interest in the capital of the issuer (...);
- c) has access to the information concerned by virtue of carrying out a job or profession or performing duties; or
- d) is involved in criminal activities.

Furthermore, the prohibition also applies to persons who possess insider information under circumstances other than those mentioned above and who know or should know that the information is insider information.

Accordingly, the prohibition of insider trading is designed as a so-called everyone offense, i.e. it can in principle be violated by any person without the person having to fulfill special characteristics.

Furthermore, it is prohibited to disclose insider information without authorization. Disclosure can be fulfilled both by the direct passing on and by the (mere) enabling of knowledge of the insider information. Disclosure is only permissible by way of exception if it occurs in the course of the normal exercise of an employment or profession or the normal performance of duties.

Passing on recommendations or inducing others after one has been inveigled oneself is also considered unlawful disclosure of inside information. This is the case when the person passing on the recommendation or inducing others after being inveigled himself knows or should know that the recommendation or inducement is based on inside information.

Bond buyback programs and price stabilization measures are exempt from the insider trading ban under certain conditions. Should such measures be pending, Greencells GmbH will (or will have) legally examined these cases on an occasion-specific basis. As a rule, however,

these measures are not relevant for the executive bodies and employees of the Group, but concern Greencells GmbH itself.

#### **4. AD-HOC-PUBLICITY**

In order to prevent the dissemination and abuse of insider information, issuers must establish so-called ad hoc publicity in accordance with Article 17 (1) MAR. Since MAR came into force in 2016, this obligation also applies to Greencells GmbH.

This means that Greencells GmbH must publish any insider information that directly affects the company "without delay" in the form of an ad hoc announcement, provided that no self-exemption has been made.

##### **4.1 Direct issuer reference**

Only inside information that directly affects the issuer must be published by the issuer. MAR does not contain a corresponding definition. Examples of the reason for an ad hoc announcement can be found in section 3.1.

On the one hand, this generally refers to information or circumstances that occur in the issuer's sphere of activity, e.g. internal company developments such as inventions, capital measures, extraordinary income or expenses. On the other hand, circumstances occurring outside the issuer's sphere of activity may also be subject to disclosure requirements if they directly affect the issuer.

##### **4.2 Examples for basically (only) indirect (not ad-hoc) impact of the issuer<sup>3</sup>**

According to ESMA's predecessor CESR and BaFin, the following information, events and developments affect the issuer only indirectly and therefore do not normally give rise to an ad hoc disclosure:

- general market statistics,
- research studies to be published in the future, recommendations or proposals concerning the value of listed financial instruments,
- general interest rate developments, interest rate decisions,

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<sup>3</sup> Quelle: BaFin, Emittentenleitfaden Modul C, Regelungen aufgrund der Marktmissbrauchsverordnung (MAR), Seite 33/34; Stand: 25.03.2020

- decisions of governmental authorities regarding taxation, regulation, debt management,
- decisions on market supervision rules,
- important rulings by authorities or other public institutions (e.g. information that the supervisory authority has opened investigations into shares of the issuer on suspicion of violating securities trading regulations does not trigger an ad hoc publicity obligation),
- decisions on the rules of index composition and calculation,
- decisions of stock exchanges, operators of over-the-counter trading platforms and authorities on the respective market regulation,
- decisions of competition and market surveillance authorities regarding listed companies,
- buy and sell orders in relation to financial instruments of the issuer,
- changes in trading conditions on the part of the trading venue operator (e.g. change of trading segment, change of trading model, e.g. from continuous trading to the single auction model, change of market maker); a decision by the issuer to change the transparency level (change of segment), on the other hand, affects the issuer directly,
- information on general economic data or political events, unemployment figures, natural events or, for example, oil price developments,
- information about a change in the situation of a competitor that is relevant for the issuer (e.g. imminent insolvency of the competitor),
- information relating only to the financial instrument itself, such as the acquisition or sale of a larger bond package in the context of over-the-counter transactions without strategic objectives.

It should be noted in this context:

- Although insider information only indirectly affecting the issuer is not subject to publication, it nevertheless triggers the prohibitions of Article 14 MAR (prohibition of insider dealing and unlawful disclosure of insider information).
- In addition, according to BaFin, insider information that occurs outside the issuer's sphere of activity because it directly affects them, such as the receipt of an offer for

takeover, may also be subject to ad hoc disclosure. Also to be considered are decisions by courts or administrative authorities that have a direct impact on the formation of provisions or require a significant correction of forecasts.

- In the event of a re-placement (change of a larger package) of the bond, the question of ad hoc publicity requirements may also arise. However, insider information that directly affects the issuer only exists in special constellations, e.g., if the re-placement clearly pursues strategic objectives that will influence the future development of the issuer and the issuer is aware of these strategic objectives, or if the re-placement is expected to have potential effects on the management of the company.

#### **4.3 Ad hoc publicity on business development and forecasts**

The relationship between ad hoc publicity and regular publicity is also of considerable practical relevance. The following applies: Business transactions, insofar as they involve insider information, trigger the ad hoc publicity obligation even before they are published as part of the regular publicity. This primarily relates to positive or negative deviations of the actual business development from previous forecasts and/or market expectations, measured against the mean value of current analysts' estimates (so-called consensus estimate).

**Note:** BaFin determines the market expectation by using the mean value of the analysts' estimates current at the time the insider information arose (so-called consensus estimate). As it may be difficult to determine the mean value in individual cases from a methodological point of view (e.g. because too few estimates are available), it remains permissible to determine the market expectation "by other means". An issuer does not have to determine this market expectation itself, but may use external data providers for this purpose. If a market expectation cannot be determined in a comprehensible manner, for example because there are no current estimates, the relevant previous year's figures must be used.

It should also be noted that insider information subject to disclosure requirements may exist on the basis of a single event - for example, if it results in a significant profit or loss. Insider information may also result from the sum of various items of information which individually do not constitute insider information (e.g. accumulation of effects in the result of ordinary business activities, which is calculated from individual items of the profit and



loss account which - viewed in isolation - are not subject to ad hoc disclosure requirements).

The obligation to publish arises as soon as the relevant insider information is available. The internal organization at Greencells GmbH and this Transparency Guideline are intended to ensure that possible insider information is immediately brought to the attention of the management (as the body authorized to make decisions) and checked by it for its ad hoc obligation. In the context of ad hoc publicity, only the insider information, i.e. the specific information which has the potential to significantly influence the share price, must be published, but not the entire annual financial statements or semi-annual report.

When assessing the price relevance of (full-year or intra-year) financial figures, BaFin applies a 3-stage benchmark test with the following basic test sequence:

- (1) Issuer's own forecast (significant potential to influence share price generally to be affirmed if business figures lie outside the forecast corridor)
- (2) current market expectations
- (3) figures for the corresponding period of the previous year

As long as Greencells GmbH does not issue a forecast for business results during the year, these may nevertheless be capable of significantly influencing the share price and must therefore be published on an ad-hoc basis if they

- deviate significantly from market expectations (measured by current estimates of analysts),
- unexpectedly deviate significantly from the corresponding prior-year figures, or
- represent a break with previous business performance (e.g. turnaround after several quarters of losses; slump in sales after a sustained period of growth over several quarters).

If Greencells GmbH has issued a forecast for business results during the year and if the business results during the year are within this forecast, no ad hoc announcement is generally required.

If the end-of-year or intra-year business results are insider information, they must be published immediately in an ad hoc announcement.

Forecasts may be subject to publication in the sense of ad hoc publicity. For this to be the case, the occurrence of the forecast event must be sufficiently probable, for example if

Greencells GmbH prepares forecasts on the basis of concrete indications of the further course of business.

As a rule, a (new) forecast has considerable potential to influence the share price if it deviates significantly from market expectations (as documented, for example, in analysts' estimates) - or in the absence of such expectations - from past business results.

In principle, two constellations lead to the issuer's ad hoc publicity obligation in the case of forecasts:

- the first-time issuance of a forecast in the event of a significant deviation from market expectations, and
- a change in the forecast in the event of a significant deviation from the previously issued forecast and, at the same time, from market expectations.

In many cases, generally formulated expectations or medium- or long-term plans of the issuer do not yet allow sufficiently concrete conclusions to be drawn about the actual development of the company and are therefore not subject to the disclosure requirement.

#### **Explanation of alternative performance measures:**

In the case of insider information relating to financial (key) figures, the ESMA guidelines on alternative performance measures (APMs) must be observed in the publication. The APM guidelines stipulate that alternative performance measures (e.g. EBITDA, operating result) must be explained. For this purpose, the ad hoc announcement may also refer to the issuer's website, where the explanations can be read. In accordance with BaFin requirements, the disclosures must enable a comparison with the corresponding prior-year figures and/or percentage changes compared with the prior-year figures.

#### **4.4 Timing for the publication of ad hoc announcements**

Insider information must always be published without delay (including at night, on weekends, and on public holidays), unless the self-liberation route has been chosen (see section 5) or Greencells GmbH is not directly affected by the insider information. BaFin's handling of this matter is very strict. For example, publication of a contract concluded at night only the next morning would be too late.

Please note: An ad hoc announcement is not published immediately after it has been activated in the EQS system used, but with a delay of 30 minutes. This time is granted to the

stock exchange operators to check the ad hoc announcement. They then have the option of temporarily suspending trading in the green bond in view of the potential impact of the content. This is to give market participants more time to evaluate the content. Alternatively, the Exchange may order that the 30-minute grace period be discontinued and that the ad hoc announcement be published immediately.

An English translation of the ad hoc announcement that is not yet available does not constitute a reason to send an ad hoc announcement late. On the one hand, Greencells GmbH is currently not obliged to communicate in English anyway. On the other hand, the statutory ad hoc obligation takes precedence over the publication obligations of the stock exchange operator. It should be noted that the publication of the translation must take place within 24 hours of the first German publication. Otherwise, a later publication of the English-language ad hoc announcement is inadmissible in the opinion of BaFin.

**ESSENTIAL:**

- As soon as it is recognized that a matter may develop into insider information in the future or - in the case of a self-liberation - is already insider information, a draft ad hoc announcement should be prepared in German and, if necessary, English in order to be optimally prepared for publication. For this reason, the draft must be regularly updated in the case of stretched facts. In order to monitor various matters, it may be useful to keep an ongoing list of such matters that are continuously checked for their ad hoc relevance.
- In practice, it can be useful to prepare so-called shadow ad hoc disclosures in order to be prepared for critical issues in advance of the insider information (plus the creation of a project-specific shadow insider list).
- A confidentiality agreement with the contractual partner does not exempt from the ad hoc obligation.
- In many cases, Greencells GmbH will publish a more detailed press release (so-called corporate news) with explanatory information and quotes in addition to the ad-hoc announcement. Accordingly, the dispatch or publication of this Corporate News may only take place after the publication of the ad hoc announcement.
- An ad hoc announcement must focus on relevant facts, must be factual and not promotional, must contain one or two key words (selection options specified by BaFin and the service provider) and must not contain any quotations.

#### 4.5 Publication channel and obligations

Insider information (ad hoc announcements) must be published in a fixed formal process:

- Advance notification to BaFin and management boards of the trading venues concerned (section 26 (1) WpHG);
- public announcement (Article 17 (1) MAR): Publication must be made via an electronically operated information dissemination system that enables broad dissemination to the media and investors;
- display on the issuer's website for a period of five years (Article 17 para. 1 subpara. 2 MAR);
- transmission to the company register (Section 26 WpHG);
- transmission of the self-exemption resolution to BaFin (see section 5) - as previously possible together with the preliminary notification and as is customary in practice.

For this implementation of the publication obligation, Greencells GmbH turns to its contractual partner Better Orange, which cooperates with the company EQS, which serves all prescribed target groups and media bundles. Therefore, Greencells GmbH via Better Orange sends all ad hoc announcements via the EQS system in order to fulfill the requirements in the best possible way and to achieve the best possible distribution.

The ad-hoc announcements must be available on the Greencells GmbH website for at least five years after publication. The import and display of ad hoc announcements on the Greencells GmbH website (in accordance with the BaFin recommendation) is carried out in the Investor Relations department by the Head of Corporate Communications & IR.

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#### **4.6 Process at Greencells GmbH for the publication of ad hoc announcements**

- Decision regarding the existence of insider information and ad hoc duty by the management; in the event of a postponement decision, immediate documentation of the self-exemption decision (for self-exemption, see section 5).
- Preparation of an event-related insider list (incl. information to the persons concerned) by Greencells GmbH, CFO, after coordination of the persons concerned with the management board.
- Editorial preparation of the ad hoc announcement by the IR/PR department, if necessary together with external advisors, review by the management and, if necessary, external legal advice (if necessary, several rounds of coordination; only permissible as long as the conditions for self-exemption are met - otherwise the ad hoc announcement must be published immediately).
- If necessary, editorial preparation of a Corporate News with supplementary information on the ad hoc announcement by the IR/PR department, if necessary together with external advisors, review by management and, if necessary, external legal advice (if necessary, several rounds of coordination).
- Order for translation by the IR/PR department, possibly earlier depending on the progress of the project.
- Release of the ad hoc announcement and, if necessary, corporate news by the management by e-mail (at the request of the IR/PR department).
- Dispatch of the ad hoc announcement by Greencells GmbH, IR/PR department, if necessary together with external consultants, after written approval (e-mail) by the management - at the latest immediately after the conditions for self-exemption have ceased to apply (see section 5) by EQS.
- If necessary, dispatch of supplementary corporate news by Greencells GmbH, IR/PR division, if necessary together with external advisors, as soon as ad hoc announcement has been published (observe 30-minute waiting period).
- Dispatch of the ad hoc announcement or corporate news to the investor and media distribution list by Greencells GmbH, IR/PR division.
- Closing of the event-related insider list by the CFO.

## **5. SELF-EXEMPTION: TEMPORARY SUSPENSION OF THE AD HOC DUTY**

Publication can only be postponed in exceptional cases under very narrow conditions on the Greencells GmbH's own responsibility. This postponement decision (so-called self-exemption) must be precisely documented.

A self-exemption leads (merely) to temporary exemption from the obligation to publish an ad hoc announcement; as soon as the conditions for self-exemption no longer exist, the publication must be made up for.

The decision on self-exemption is made by the management. However, if the issue is a matter for the shareholders' meeting or the advisory board and falls within the original competence of these bodies (e.g. appointment or dismissal of managing directors), BaFin is of the opinion that (as an exception) the shareholders' meeting or the advisory board must make the decision on self-exemption by way of a resolution. For the subsequent publication of the insider information (ad hoc announcement), on the other hand, it remains the responsibility of the management. At Greencells GmbH, it must therefore be ensured internally that the relevant insider information is immediately forwarded to the management for publication by the shareholders' meeting or the advisory board.

In this context, Greencells GmbH relies on external legal support at an early stage in order to comply with the legal and statutory requirements, including the extensive documentation obligation, in the best possible way.

If disclosure is postponed, Greencells GmbH must regularly verify the existence of the circumstance justifying the postponement and document this accordingly (e.g. management resolution) and, with the subsequent disclosure of the information, inform BaFin of the postponement of disclosure and explain in writing the extent to which the requirements for self-exemption were met. The transmission of the self-exemption decision and, if applicable, the review decision to BaFin shall take place at the same time as the preliminary notification by EQS, whereby the self-exemption shall only be notified to BaFin and not to the general public. The documentation of the self-exemption resolution is usually prepared with the assistance of the responsible legal advisors and finalized and signed by the management.

This provision has high operational relevance, as it is the responsibility of Greencells GmbH to prove that everything possible has been done to ensure secrecy, that procedures have been established to ensure that disclosure can be made immediately if necessary, and to document in minute detail who had knowledge of the inside information and when.

As soon as the existence of insider information is established and its publication as an ad hoc announcement is (temporarily) postponed by self-exemption, an insider list for the insider



information in question must be drawn up immediately after the exemption decision and all persons involved must be included and informed. If the group of persons or the reason for the inclusion of persons already included on the insider list changes, the list must be updated.

### **5.1 Conditions for a self-exemption**

For a self-exemption, three essential points must be fulfilled:

#### **a) Suitability to impair the legitimate interests of the issuer**

- e.g. in the case of ongoing negotiations or related circumstances, if the outcome or normal course of such negotiations would be likely to be affected by the publication of the ad hoc announcement
- e.g. protection of the freedom of decision of the shareholders' meeting or the advisory board in the case of transactions requiring approval, if (i) the immediate disclosure of this information prior to a final decision would jeopardize the correct evaluation of the information by the public and (ii) the issuer has ensured that the final decision is taken as quickly as possible

#### **b) No suitability to mislead the public**

- no contrary announcements

#### **c) Ensuring confidentiality or secrecy**

- Strict restriction of the group of persons with knowledge (need-to-know basis); organizational measures must be taken to ensure that insider information held by the company is only passed on to persons who require it for the normal exercise of their work, profession or duties at the issuer during the exemption period
- Inclusion and instruction in the insider list of board members and employees as well as a contact person at consultants or service providers, e.g. law firms
- Conclusion of confidentiality agreements with consultants and negotiating partners



## 5.2 Dealing with rumors

If sufficiently precise rumors occur, the possible deferral ends. A rumor is sufficiently precise if it contains a true factual core and has a concrete reference to insider information, which is the case if the information to be derived from it indicates an information leak. In this context, anders than in the past, it is irrelevant whether the information leak originates from the sphere of the issuer or not. The issuer must then publish an ad hoc announcement as soon as possible (Article 17 (7) MAR).

It is incumbent on every company to keep an eye on the news situation concerning the company in order to be able to react in good time if a precise rumor appears on the market.

## 6. THE INSIDER LIST

Every issuer is obliged to draw up and maintain insider lists in which all persons with access to insider information are included, insofar as these persons perform tasks for the issuer on the basis of an employment contract or otherwise through which they have access to insider information (Article 18 MAR). This also applies to all persons acting on behalf or for the account of an issuer (e.g. external consultants, rating agencies).

Greencells GmbH maintains two types of insider lists in the form of an Excel database:

- I. On the one hand, all insiders who have permanent access to all insider information are recorded in the so-called "permanent insider list". The group of permanent insiders is to be kept as small as possible.
- II. on the other hand, the insiders who have access to certain insider information for individual projects (e.g. preparation of annual financial statements or M&A transactions) are also recorded in the respective "project-related insider list".

In concrete terms, this means that if the publication of insider information is opened up, a project-related list must be created without delay, the group of insiders must be defined on a project-related basis, and must be entered in the insider list (unless they are permanent insiders who are automatically part of every project-related insider list). This circle is regularly selected to be as small as possible (need-to-know principle) so that the confidentiality of the information can be guaranteed in the best possible way.

Greencells GmbH must (be able to) provide the data of the insider lists at short notice at any time upon request of BaFin. As a rule, this will be the case if there have been conspicuous events in the trading of the corresponding securities in connection with an insider offence.

The lists are created, maintained and updated locally by the assistant to the Chief Financial Officer in compliance with the DSGVO, so that they can be submitted to BaFin at any time. Restricted access to the insider list ensures the necessary secrecy, as its content alone can be insider-relevant.

### 6.1 Inclusion in the insider list

In addition, numerous personal details are required for each person to be included. The reason for inclusion (often a project), the date and time of access, and the date the list was created must be provided. The insider list must be continuously updated. This means that people must be added or removed, or the reason for inclusion in the list must be changed. Insider lists must be kept for at least five years from the date of creation or updating.

All persons who are listed as insiders must be informed of their obligations under insider law and the consequences of violations. This is done on the one hand by means of the present guideline, and on the other hand by means of an information sheet, which is automatically sent by e-mail by the CFO Office upon inclusion in an insider list. Persons included in the insider list must also confirm in writing that they acknowledge the obligations under insider law and are aware of the sanctions by signing this information sheet. The form is sent by e-mail, which is why an original signature or an electronic signature is required.

In the case of service providers, only the (company) name and a contact person of the service provider (for example, the respective project manager or managing director) must be included in the insider list of Greencells GmbH. The service provider itself, in turn, must maintain a corresponding insider list for all parties involved in its company and ensure that all legal requirements are implemented.

**Note:** On the project-related (i.e. event-related, event-based or business-specific) insider list, the time and date from which the insider had access to the insider information must be indicated. In the case of the list of permanent insiders, the date on which the person was included in the list must be entered.

### 6.2 Insider list update

The issuer shall update the permanent and project-related insider list without delay if

- the reason for including the person on the insider list changes,

- a new person gains access to the inside information and therefore has to be included in the insider list, and
- a person included in the insider list no longer has access to the inside information.

The updates must be made without delay, i.e. on an ongoing basis. Each update must state the date and time of the change. The obligation to update ends when there is no longer any inside information. This is the case, for example, if the information has been published or the inside information or project has been prematurely terminated.

## 7. DIRECTORS' DEALINGS

In the capital market, market participants must be able to form a picture of when managers of the issuer and persons closely associated with them trade in shares or debt instruments of the issuer or in derivatives or other related financial instruments. This is referred to as managers' transactions or directors' dealings.

### 7.1 Circle of leaders

According to Article 3 (1) No. 25 MAR, a "**person performing managerial functions**" (hereinafter also referred to as "managerial person") is a person who:

- (a) belongs to an administrative, management or supervisory body of the company or
- b) as a senior executive does not belong to any of the bodies referred to in letter a) but has regular access to insider information directly or indirectly related to the company and is authorized to take corporate decisions on future developments and business prospects of the company.

According to the organizational chart of Greencells GmbH, the following persons are currently considered to be managers under this definition:

- Members of the C-Level.

### 7.2 Closely related persons

A closely associated person as defined in Article 3 (1) No. 26 MAR means.

- a. the spouse of a leader or a partner assimilated to a spouse of a leader according to national law;
- b) a dependent child of a leader in accordance with national law;

- c) a relative of a leader who has been a member of the same household for at least one year at the time of the transaction in question; or
- d) a legal person, trust or partnership whose management functions are carried out by a leader or a person referred to in letters a), b) or c), which is directly or indirectly controlled by a leader, which was established for the benefit of a leader or whose economic interests largely correspond to those of such a leader.

### **7.3 Capture of the leaders**

In addition to the insider list, Greencells GmbH is obliged to continuously maintain a list of persons with management responsibilities and persons closely associated with them, and also to continuously update this list. Therefore, the management persons of Greencells GmbH must report these persons closely associated with them. In addition, the issuer must instruct all persons in management positions in writing about obligations in the case of proprietary transactions (purchase or sale of green bonds). This is done with the present guideline as well as with a clarification sheet to be signed.

Managers must also instruct persons closely associated with them in writing about their obligations in connection with proprietary transactions and retain a copy of the instruction document. For this purpose, they must also provide these persons with an information sheet.

As with the insider list, the list for the recording of management persons is maintained by the CFO in the form of an Excel database. In addition to the digital form, the signed disclosure forms are also stored in the CFO's office under lock and key in the document filing system.

### **7.4 Reporting obligation**

These executives of Greencells GmbH and persons closely related to them must notify the issuer and the competent authority of their own transactions in Greencells GmbH bonds and related financial instruments. Regulations on directors' dealings take effect as soon as the executive has carried out transactions with a total volume of at least EUR 20,000 (without netting) within a calendar year. This means that the transaction with which the threshold value is reached must be reported first, as well as all subsequent transactions. Greencells GmbH must publish this notification immediately and no later than three business days after the actual transaction. Therefore, executives shall inform Greencells GmbH

about directors' dealings without delay, at the latest within two business days (three business days are required by law; however, Greencells GmbH needs time for the required publication), after conclusion of the transaction (day of purchase or sale of shares). Subsequently, Greencells GmbH shall assume the further publication obligations.

### **7.5 Publication process for directors' dealings**

- The person in charge shall inform Greencells GmbH - using the form contained in the Implementing Regulation (EU) 2016/523, which is also available on BaFin's website (<https://www.bafin.de/dok/8024162>) - by mail or fax.
- Greencells GmbH will check the notification and, if necessary, complete or correct it after consultation with the executive or legal advisors.
- The CFO will then submit the notification to Better Orange, which will publish the notification electronically via EQS. Upon publication, all publication obligations of the executive and Greencells GmbH are fulfilled (e.g. vis-à-vis BaFin). The manager himself therefore only has to inform Greencells GmbH (and not other bodies such as BaFin).

### **7.6 Closed Periods**

Closed periods (sometimes also referred to as blackout periods) are legally prescribed, time-limited trading prohibitions for executives. Within this period, the persons are prohibited from conducting transactions with bonds of Greencells GmbH - but also with derivatives or other financial instruments related to them (Article 19 (11) MAR). BaFin assumes that, depending on the circumstances of the individual case, transactions of closely related persons may also fall under the trading prohibition if this constitutes an indirect transaction of the leading person. This is intended to prevent attempts at circumvention. Closed periods are defined as the periods of 30 calendar days prior to the "announcement" of annual or semi-annual financial statements to be published (in contrast, quarterly announcements and quarterly financial reports do not trigger a trading ban in the opinion of BaFin). The day of publication also counts as such; it is therefore the last day of the 30-day closed period. In the future, Greencells GmbH will inform the affected persons by e-mail at the beginning of the year about the planned publication dates and the associated closed periods. This also applies to postponements. Likewise, the management persons will be informed by mail one day before the start and the day after the end of the trading ban. The CFO is responsible for informing senior executives.

Indirect transactions (e.g. via associated companies) are also affected. Exceptions exist only in individual cases, including when exceptional circumstances (e.g. serious financial difficulties) require an immediate sale (cf. Article 19 (12) MAR). In these cases, the lead person must submit a written reasoned request for approval of the transaction to Greencells GmbH prior to the transaction.

## **8. PROHIBITION OF MARKET MANIPULATION**

Market manipulation is understood to mean the conclusion of transactions, the placing of orders to trade and all other actions which give, or are likely to give, false or misleading signals as to the supply of, demand for, or price of a financial instrument, or which result in, or are likely to result in, an abnormal price level (Article 12 (1) MAR). A new addition is that the attempt to manipulate the market is also prohibited (Article 15 MAR). Basic offences covered by the term "market manipulation" are listed in Article 12 (1) MAR. Article 12 (2) MAR contains a non-exhaustive list of specific acts that fall under market manipulation.

The German Federal Court of Justice (Bundesgerichtshof) already affirms market manipulation in the case of so-called "matched orders" (agreed transactions).

Market manipulation includes, for example:

- the publication of false information, for example in directors' dealings or in securities sales prospectuses,
- the use of the self-exemption for ad hoc announcements, even though there was no basis for doing so
- failure to publish insider information, or
- making false statements about the company in discussions with the media, analysts or investors.

Excluded from the prohibition of market manipulation are actions undertaken in accordance with permissible national market practice (Article 13 MAR). In Germany, it is the responsibility of BaFin to determine the permissible practice.

## **9. CHANGE OF MANAGEMENT**

In the event of a change within the management body, care must be taken to ensure that the person in question has been included in all directories and has received all the necessary instructions or has been removed from the relevant directories and, where applicable, distribution lists.

This process is controlled by the CFO.

As a rule, a (possible) change of managing directors also always constitutes insider information with the corresponding follow-up obligations (cf. sections 3 and 4). In the event of changes in management, the ad hoc obligation must be examined in each specific individual case.

## 10. SANCTIONS

Violations of the regulations are subject to material and immaterial sanctions.

### Material sanctions

Violations of...	Fines for natural person	Fine for legal person	Profit skimming
<b>Prohibition of market manipulation/insider prohibitions</b>	up to EUR 5 million/ custodial sentence up to 5 years	up to EUR 15 million or 15 % of Group sales	up to three times the obtained by the obtained by the violation economic advantage
<b>Ad-hoc-Publicity</b>	up to EUR 1 million/ forfeiture of profits made/ losses avoided as a result of the infringement	up to EUR 2.5 million or 2 % of Group sales	
<b>Duties on insider lists, directors' dealings, closed periods</b>	Up to 0,5 Mio. EUR	Up to 1 Mio. EUR	

(Quelle: BaFin)

### Intangible sanctions

Other immaterial sanctions are:

- "Naming and Shaming": publication of the incident, sanction and the identity of the responsible persons by BaFin in a publicly accessible digital directory.
- Prohibition from assuming management functions in an investment firm
- Revocation or suspension of the issuer's stock exchange listing
- Prohibition of proprietary trading



## 11. FURTHER INFORMATIONEN

Further information can be found in the BaFin's Guide for Issuers. This guide provides practical assistance in dealing with the provisions of securities trading law without constituting a legal commentary. It provides an introduction to the law and explains BaFin's administrative practice. It should be noted, however, that the guide has not yet been adapted, or has only been partially adapted, to the new regulations of MAR. However, the guide can still serve as an initial orientation in questions of doubt. However, some parts of the guide are no longer effective.

In addition, BaFin has issued FAQs on the key provisions of MAR, in which BaFin explains how certain provisions of MAR are to be interpreted from its perspective. In addition, the European Securities and Markets Authority (ESMA) has issued Q&As on the relevant issues.

### FURTHER INFORMATIONS:

BaFin:

- [https://www.bafin.de/DE/Aufsicht/BoersenMaerkte/Emittentenleitfaden/emittentenleitfaden\\_node.html;jsessionid=04D7E8218B55B1CEA63B4179BED6D13A.1\\_cid361](https://www.bafin.de/DE/Aufsicht/BoersenMaerkte/Emittentenleitfaden/emittentenleitfaden_node.html;jsessionid=04D7E8218B55B1CEA63B4179BED6D13A.1_cid361)
- [https://www.bafin.de/DE/Aufsicht/BoersenMaerkte/boersenmaerkte\\_node.html](https://www.bafin.de/DE/Aufsicht/BoersenMaerkte/boersenmaerkte_node.html)

ESMA:

- [www.esma.europa.eu/regulation/trading/market-abuse](http://www.esma.europa.eu/regulation/trading/market-abuse)