

Content

Title :	Regulations Governing Information to be Published in Public Tender Offer Prospectuses Ch
Date :	2012.07.05
Legislative :	<ol style="list-style-type: none">1. Full text of 5 articles issued per 12 August 2002 Order No. Taiwan-Finance-Securities-III-0910004289 of the Securities and Futures Commission, Ministry of Finance; for implementation from the date of issuance2. Full text of 15 articles amended and issued per 22 June 2005 Order No. Financial-Supervisory-Securities-III-0940002719 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance3. Articles 6, 8, and 11 amended and issued per 29 December 2009 Order No. Financial-Supervisory-Securities-Trading-0980069191 of the Financial Supervisory Commission, Executive Yuan4. Articles 7 and 11 to 13 amended and issued per 5 July 2012 Order No. Financial-Supervisory-Securities-Trading-1010026927 of the Financial Supervisory Commission
Content :	<p>Article 1</p> <p>These Regulations are adopted pursuant to Article 43-4, paragraph 2, of the Securities and Exchange Act (the "Act").</p> <p>Article 2</p> <p>The basic principles for preparing a public tender offer prospectus are as follows:</p> <ol style="list-style-type: none">1. The contents of a public tender offer prospectus must be detailed and unambiguous, and may not contain any misrepresentations or nondisclosures.2. The contents of the prospectus must be up to date. All transactions or other events occurring before the printing of the prospectus which are likely to affect the judgment of interested parties shall be disclosed. <p>Article 3</p> <p>The following items shall be printed in the order below on the cover of the public tender offer prospectus:</p> <ol style="list-style-type: none">1. The signature or seal of the public tender offeror. If the public tender offeror is a company, the signature or seal of its responsible person must also be included.2. The name of the company being acquired.3. The type(s) of securities being purchased.4. The volume of securities being purchased.5. The tender offer consideration.6. The tender offer period.7. The following text shall be printed prominently:<ol style="list-style-type: none">(1) The public tender offeror and any other parties that have signed or sealed the public tender offer prospectus shall bear legal liability for any misrepresentations or nondisclosures contained in this public tender offer prospectus.(2) Tenderers are strongly advised to read this public tender offer prospectus carefully and take note of the risks associated with tendering.8. The URL for the website(s) to visit for further information about the

prospectus.

9. The date of printing.

Article 4

The public tender offer prospectus shall include the following information:

1. Basic information on the public tender offer.
2. Public tender offer conditions.
3. Type(s) and source(s) of public tender offer consideration.
4. The risks associated with tendering.
5. Procedures to be followed after expiration of the period of public tender offer.
6. The public tender offeror's shareholdings in the subject company.
7. The circumstances of any other purchases and sales by the public tender offeror of shares in the subject company.
8. The public tender offeror's business plan for the subject company.
9. The resolution [to initiate the public tender offer], and an opinion on its reasonableness.
10. An explanation of any other material information.

Article 5

The basic information on the public tender offer shall include the following items:

1. Where the public tender offeror is a natural person, the name and occupation of the offeror, his or her spouse, and any minor age children shall be indicated.
2. Where the public tender offeror is a company, the prospectus shall indicate the name, website address, and principal line(s) of business of the company, the names of its directors, supervisors, and any shareholders owning more than 10% of the public tender offeror's total issued shares, and the shareholdings of said parties.
3. The name, address, and telephone number of the mandated institution and the matters that it has been mandated to handle.

Article 6

The public tender offer conditions shall include the following items:

1. Period of public tender offer.
2. Maximum and minimum projections for the volume of shares to be purchased through public tender offer.
3. The public tender offer consideration.
4. Whether the current public tender offer involves any matter that requires the approval of the Financial Supervisory Commission or other competent authority or that requires an effective registration, and whether such approval has already been obtained or registration has already become effective.
5. After the public tender offer conditions as filed by the offeror have been satisfied and an announcement to that effect has been made, a tenderer is not allowed to cancel its tender, except under a circumstance set forth in Article 19, paragraph 4 of the Regulations Governing Public Tender Offers for Securities of Public Companies.

Article 7

The section on type(s) and source(s) of public tender offer consideration shall include the following items:

1. If consideration is paid in cash:

- (1) An itemized statement of the offeror's funds [to be used for the acquisition].
 - (2) If financing is to be used in the purchase of the securities, the prospectus shall provide a detailed description of all financing plans, to include the source of the borrowed funds, the lender and the borrower, and the collateral. If the assets or shares of the subject company, or of the surviving company in the case of a merger, are listed as collateral in the tender offeror's loan repayment plan, the prospectus shall disclose the collateralization terms, and give an assessment of the impact on the financial and operational soundness of the subject company, or of the surviving company in the case of a merger. If none of the above-mentioned exists, the tender offeror shall make a declaration to that effect.
2. If securities set out in Article 8, paragraph 1, of the Regulations Governing Tender Offers for Purchase of the Securities of a Public Company will be paid as consideration for the acquisition, the prospectus shall include:
- (1) The names and types of securities to be paid as tender offer consideration, their average prices and trading volumes over the most recent three months, and their closing prices on the day prior to filing.
 - (2) The time and cost at which the public tender offeror obtained the securities.
 - (3) The method for determining the share exchange ratio, and the factors that were weighed in making the determination.
3. If securities set out in Article 8, paragraph 2, of the Regulations Governing Tender Offers for Purchase of the Securities of a Public Company will be paid as tender offer consideration, the prospectus shall include:
- (1) The minutes of the directors' or shareholders' meeting where it was resolved to offer and issue shares or corporate bonds.
 - (2) The terms and conditions of issuance applying to the offering and issuance of the shares or bonds.
 - (3) If shares of the same type as those to be offered and issued by the public tender offeror are already being traded on a centralized securities exchange market or an over-the-counter market, the prospectus shall disclose the average price and trading volume over the most recent three months, and the closing price on the day prior to filing.
 - (4) The method for determining the share exchange ratio, and the factors that were weighed in making the determination.
 - (5) The company's financial reports for the past two fiscal years; where the company has been in business for less than two years, the prospectus shall include the financial reports for the fiscal year(s) during which the company has been in business.
 - (6) Its most recently published financial report audited and certified or reviewed by a CPA.
 - (7) An explanation shall be provided for any material changes in the company's financial or business operations that have occurred between the date of the balance sheet in its most recently submitted financial report and the date on which it filed the public tender offer. If there have been no material changes, the public tender offeror shall make a declaration of no material changes.
 - (8) A statement describing the projected effect of the acquisition of the

subject securities upon the financial and business operations of the public tender offeror over the three-year period following acquisition.

Article 8

The following risks associated with tendering shall be noted in conspicuous lettering:

1. The risk that the public tender offer could be suspended pursuant to provisions set out in the Act under Article 43-5, paragraph 1, subparagraphs 1 through 3.
2. The risk that the Financial Supervisory Commission or another authority might deny approval, suspend registration, reject filing, or revoke approval.
3. The risk that the competent authority, acting pursuant to the provisions set out in Article 43-5, paragraph 2, of the Act, might order the public tender offeror to re-file and re-publish content of the previously filed and published public tender offer.
4. If shares or corporate bonds to be offered and issued will be paid as tender offer consideration pursuant to the provisions of Article 8, subparagraph 2, of the Regulations Governing Tender Offers for Purchase of the Securities of a Public Company, the risk that such securities cannot be issued on schedule.
5. The risk that a tender may not be withdrawn after the conditions of the tender are met, except under a circumstance set forth in Article 19, paragraph 4 of the Regulations Governing Public Tender Offers for Securities of Public Companies.
6. The risk that the number of shares tendered may not meet the minimum projected purchase volume.
7. The risk that not all shares tendered can be sold.
8. Any other material risk that the public tender offeror knows could affect the share purchasing process.

Article 9

Information to be published with regard to procedures that will be followed after expiration of the period of public tender offer:

1. The time at which the public tender offeror will pay the tender offer consideration, and the manner and place of payment. If foreign securities are to be paid as tender offer consideration, there shall be an explanation of the delivery method and how tenderers are to conduct the trade for those securities.
2. The time at which tenderers are to deliver transacted securities, and the manner and place of delivery.
3. The time at which tendered but untransacted securities are to be returned, and the manner and place of return:
 - (1) The manner in which the tender offeror will handle the return of tendered securities if the number of shares tendered falls short of the minimum number to be purchased.
 - (2) The manner in which the tender offeror will handle the return of excess tendered securities if the number of tendered securities exceeds the maximum number to be purchased (in which case the tender offeror is required to purchase from all tenderers a pro rata portion of the securities tendered).
4. If securities set out in Article 8, paragraph 2, of the Regulations

Governing Tender Offers for Purchase of the Securities of a Public Company are to be paid as tender offer consideration, the prospectus shall indicate whether cash or other securities will be substituted in the event the aforementioned securities cannot be issued on schedule. If no other substitute form of consideration is to be provided, the prospectus shall indicate the manner in which the tender offeror is to handle the return of tendered securities.

Article 10

Information to be published with regard to the public tender offeror's shareholdings in the subject company:

1. If the public tender offeror or any related party thereof already holds securities of the subject company at the time of the filing, the prospectus shall indicate the types, number, and acquisition cost thereof, as well as the relevant transaction records for the six months preceding the day of filing. The prospectus shall also include the information set out in the preceding sentence if the public tender offeror is a company and any of its directors or supervisors holds securities of the subject company.
2. If the public tender offeror or any shareholder thereof either serves as a director or supervisor of, or owns more than a 10% stake in, the subject company, the prospectus shall indicate the name and shareholding status of such shareholder(s).

Article 11

Information to be published with regard to other circumstances relating to purchases and sales by the public tender offeror of shares in the subject company:

1. If the public tender offeror or any of its related parties have bought or sold securities of the subject company from or to any of the persons listed below during the two years prior to filing of the public tender offer, the prospectus shall indicate the date(s), counterparty(ies), price(s), and volume(s) of the share transaction(s):
 - (1) Any director, supervisor, or managerial officer of the subject company, or any shareholder owning more than a 10% stake in the subject company.
 - (2) Any related party as set out in Article 3 of the Regulations Governing Tender Offers for Purchase of the Securities of a Public Company.

If the public tender offeror or any of its related parties have entered into any agreement or covenant concerning the present public tender offer with any of the persons listed in the preceding subparagraph during the two years prior to filing of the public tender offer, the prospectus shall disclose the important content of the agreement or covenant.

3. If the public tender offeror or any its related parties have entered into any agreement or covenant concerning the present public tender offer with any of the specified shareholders of the subject company during the two years prior to filing of the public tender offer, the prospectus shall disclose the important content of the agreement or covenant, including matters such as whether it involves allowing participation in investments of the offeror or its related parties.

If the public tender offeror or any of its related parties have entered into any agreement or covenant concerning the present public tender offer with any of the persons listed in subparagraph 1 of the preceding paragraph during the two years prior to filing of the public tender offer, the

prospectus shall disclose all of the agreement or covenant documents, which shall be publicly announced together with the prospectus.

Article 12

Information to be published with regard to the public tender offeror's business plan for the subject company:

1. The goal and plan of the public tender offeror in acquiring the subject company's securities:

(1) Willingness to continue operating the business of the subject company, and the content of plans to that effect.

(2) Any plan to transfer the securities of the subject company to another party within one year after acquisition, and the contents of the plan.

2. If there is any plan that would lead to any of the following situations after completion of the public tender offer, such plan shall be included:

(1) Dissolution of the subject company; its delisting from an exchange (or OTC market); material changes in its organization, capital, business plan, financial operations, or production; or any other matter of material significance that would affect the subject company's shareholder equity.

(2) Any plan for reassignment, retirement, or severance of the subject company's directors, supervisors, managerial officers, or employees.

3. If, in addition to the current public tender offer, there is another plan to acquire or dispose of securities or material assets of the subject company within one year of the day on which the period of public tender offer expires, the content of the plan shall be disclosed.

If the public tender offeror plans to delist the subject company from the TWSE (or GTSM) market after completion of the public tender offer, the business plan shall at least include the following information:

1. To the understanding of the public tender offeror, the future prospects in the industry, and the company value, of the subject company, and its reasons for conducting the public tender offer.

2. Indicate whether the public tender offer conditions are fair to the shareholders of the subject company, and the factors taken into consideration.

3. Indicate whether the public tender offeror or any of its related parties have in the most recent two years obtained from any outside party any appraisal report regarding the public tender offer conditions. If yes, indicate the content of the appraisal report, the identity of the outside party, the party's professional qualifications and the compensation that the party received.

4. For the period from after the completion of the public tender offer up to the delisting of the subject company from the TWSE (or GTSM) market, indicate any merger or acquisition plan for the subject company, and the method for handling the shares of the non-tendering shareholders, and their taxes payable.

5. After the delisting from the TWSE (or GTSM), and any merger or acquisition, of the subject company, any plan for obtaining a new listing on an exchange or over the counter in any domestic or foreign securities exchange market for any related company.

Article 13

The resolution [to initiate the public tender offer], and an opinion on its reasonableness:

1. If the public tender offeror is a natural person, the prospectus shall include an appraisal by an independent expert of the reasonableness of the cash price calculation or share exchange ratio of the public tender offer consideration.

2. If the public tender offeror is a company, the prospectus shall include the minutes of the shareholders meeting or directors meeting where it was resolved to initiate the tender offer, and an appraisal by an independent expert of the reasonableness of the cash price calculation or share exchange ratio of the public tender offer consideration.

The opinion on the reasonableness in the preceding paragraph shall disclose at least the following information:

1. The method, principles, or calculations adopted for determination of the public tender offer price, and comparison with the market-value method, cost method, and discounted cash flow method commonly used internationally.

2. Comparison of the financial condition, profit status, and price-to-earnings ratio of the subject company with those of TWSE or GTSM listed companies in the same industry.

3. If a price appraisal report of an appraisal organization is taken into account in the public tender offer price, the opinion shall specify the content and conclusion of the appraisal report.

4. If assets or shares of the subject company, or of the surviving company in the case of a merger, are listed as collateral in the tender offeror's financing repayment plan, the opinion shall disclose the collateralization terms, and assessment of the impact on the financial and operational soundness, of the subject company or of the surviving company of the merger.

Article 14

An electronic file of the public tender offer prospectus, formatted in the manner required by the Financial Supervisory Commission, shall be transmitted to the website specified by the public tender offeror in the announcement. If the public tender offer is changed in any way, the content of the public tender offer prospectus shall be amended immediately, and the amended information shall be provided on the aforementioned website.

Article 15

These Regulations shall enter into force from the date of issuance.