

Re: GM Notice, Circular and Incentive Awards

RNS Number : 6586X
DX (Group) PLC
28 November 2017

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AIM: DX.

DX (Group) plc
("DX" or "the company")

Notice of General Meeting,

Posting of Circular,

and

New Share Incentive Awards

DX, the leading independent parcels, mail and logistics network operator, announces that the Notice of General Meeting ("Notice") and Form of Proxy, in respect of a general meeting, to be held at the Company's registered office, at Ditton Park, Riding Court Road, Datchet, Slough, SL3 9GL, on 15 December 2017, at 10.00am, will today be posted to shareholders, and will shortly be available on the Company's website.

Purpose of the Resolutions

As set out in the announcement on 20 October 2017 of the Company's preliminary results for the Financial Year ended 30 June 2017, the Company has issued approximately £16.3 million of loan notes (Tranche 1 Loan Notes) and, subject to the relevant Resolutions being passed (and subject to certain other conditions), further loan notes in the amount of approximately £7.7 million (Tranche 2 Loan Notes) will be issued. The Tranche 1 Loan Notes and the Tranche 2 Loan Notes (together, "Loan Notes") are constituted by an instrument dated 19 October 2017 ("Loan Note Instrument").

Further, as set out in an announcement on 20 October 2017, certain changes were made to the membership of the Board. The Company has agreed to, amongst other things, establish a Performance Share Plan ("PSP") for the executive directors and certain senior management of the Company on certain terms (more detail as to which is given below). The Company has agreed to, amongst other things, award (on certain conditions) Paul Goodson and Russell Black, the new non-executive directors, 250,000 ordinary shares each ("Restricted Stock"). The Company has agreed to establish the PSP and make the Restricted Stock awards to the non-executive directors (the PSP and the Restricted Stock awards together, the "Incentives") before 1 January 2018.

The authorities to be granted under the Resolutions are necessary for the Company to comply with the terms of the Tranche 1 Loan Notes; necessary to allow the issue of the Tranche 2 Loan Notes; and necessary to allow the Incentives to be put in place, respectively.

If none, or not all, of the Resolutions are passed before 1 January 2018, the consequences could include some or all of the following:

- the Tranche 2 Loan Notes will not be issued and the Company will not receive the proceeds of the funding under them. The Board's view remains that, if this funding is not received, there is a material uncertainty as to the ability of the Company to continue operating as a going concern;
- the maturity of the Tranche 1 Loan Notes will shorten from 36 months to 18 months (or, if the failure to obtain the appropriate authority results in a breach of the terms of the Loan Notes, the Loan Notes will become immediately repayable (save as to a short grace period), and the interest coupon payable in relation to the Loan Notes will double from 8 per cent. per annum to 16 per cent. per annum (with the additional interest compounding with the then existing principal amount outstanding on the Loan Notes each quarter); and

- the Incentives will not be put in place, with the risk that the Directors who have been appointed, on account of their specialist skills and experience, to lead the turnaround of the Company are not appropriately retained and incentivised within the Company and may terminate their appointment and, further, the Company may be in breach of its contracts with certain of its Directors and certain holders of the Loan Notes.

Separately (and unrelated to the passing of the Resolutions), if security is not granted before 1 January 2018 in accordance with the terms of the Loan Notes to secure the Company's obligations thereunder, the interest coupon payable in relation to the Loan Notes will increase by 8 per cent. per annum (in addition to any increase referred to above, and compounding on a similar basis).

Recommendation of the Independent Director

Ian Gray is the independent director of the Company in relation to the proposed Resolutions (as the other members of the Board are holders of Tranche 1 Loan Notes and beneficiaries of the Incentives). Mr Gray considers that all of the Resolutions to be put to the Meeting are in the best interests of the Company and its shareholders and are most likely to promote the success of the Company for the benefit of its shareholders as a whole. Mr Gray recommends that shareholders vote in favour of all of the proposed Resolutions as each of the Directors (to the extent they are able) intend to do in respect of their own beneficial holdings.

Summary of the PSP and Recovery Awards

Purpose

The PSP is being established as a share plan under which awards of shares, the vesting of which is subject to performance conditions, can be made to selected employees of the Company, including the Chairman and the Executive Directors.

The PSP has been designed following consultation with the Company's largest shareholders, and the initial awards to be made under the PSP ("Recovery Awards") are designed to provide an appropriate incentive for the new management team at DX to deliver a turnaround in the Company. Accordingly, the terms of the PSP have been specifically settled to take account of the Loan Notes which, assuming their conversion rights are exercised, will have an impact on the Company's issued share capital and also on awards made under the PSP.

Operation

The Remuneration Committee of the Board of directors of the Company (the "Committee") will supervise the operation of the PSP.

Eligibility

Any employee (including an executive director but excluding any non-executive director) of the Company and any of its subsidiaries will be eligible to participate in the PSP at the discretion of the Committee.

Grant of awards

The Committee may grant an award in one of two forms:

- (i) nil or nominal cost options, where a participant can decide when to exercise his/her award over ordinary shares in the Company ("Shares") during a limited period of time after it has vested; or
- (ii) a conditional award, where a participant will receive free Shares on the vesting of his/her award.

The Committee may normally grant awards within six weeks following: (i) the Company's announcement of its results for any period; (ii) the Company's annual general meeting; or (iii) the lifting of restrictions on dealing in Shares that prevented grant of awards under (i) or (ii). The Committee may also grant awards when there are exceptional circumstances which the Committee considers justifies the granting of awards, and this includes the ability to make the proposed Recovery Awards either: (i) within six weeks following the 15 December 2017 Company General Meeting, and (2) following the appointment of any individual (if later).

No awards will be granted after the tenth anniversary of the 15 December 2017 General Meeting.

No payment will be required for the grant of an award. Awards are not transferable (other than to the participant's personal representatives in the event of death). Any benefits

obtained under the PSP are not pensionable.

Proposed Recovery Awards - Limits

It is expected that Recovery Awards will be made to the Chief Executive and the Chairman after the 15 December 2017 General Meeting.

These Recovery Awards are anticipated to be made over material numbers of shares:

- (i) Chief Executive - approximately 13 million Shares
- (ii) Chairman - approximately 7 million Shares

In addition, as the individuals will bear the obligation for the payment of employers' National Insurance Contributions when the Recovery Awards are exercised, the numbers of Shares in the Recovery Awards will be further "grossed up" by c.16.7% to compensate the holders of Recovery Awards for this transfer of liability.

Additional Recovery Awards may be made to selected senior executives, provided that the total number of Shares over which all Recovery Awards (including compensatory awards in respect of the transfer of Employers' NICs) are granted will not exceed 15% of the issued share capital of the Company from time to time (and, as further diluted by the awards under the PSP).

PSP Awards other than Recovery Awards - Limits

The PSP may be used in the future to make further awards which are not Recovery Awards to Executive Directors or selected senior managers. However, before making such awards the Company will consult with its largest shareholders to agree an available "pool" of available Shares for any such awards.

Vesting of Recovery Awards and Performance Conditions

Recovery Awards shall be subject to a Share Price performance measure as follows:

3-4-5 Year Share Price target	% of Recovery Award that Vests
Less than 12.5p	0%
12.5p	25%
Between 12.5p and 50p	Pro-rata on straight-line basis between 25% and 100%
50p	100%

The Share Price target will be tested at each of the third, fourth and fifth anniversaries of the making of the Recovery Awards, and on each occasion the Share Price measurement is to be based on the 30 day average share price prior to the test date. Achievement of a Share Price measurement on a later test date which is greater than the achieved measurement on a previous test date will result in additional vesting of the Recovery Award in accordance with the above table.

In addition to the Share Price targets stated above, the Committee must be satisfied with overall financial performance to allow any vesting of Recovery Awards on any occasion.

Recovery Awards for which the Share Price target is attained at any test date will vest 12 months later (being the fourth, fifth and sixth anniversaries of the award date) provided that the participant is still a director or employee in the Company's group at that time.

For ease of calculation, the Committee may choose to align all Share Price test dates for participants to those for the Recovery Awards granted to the Chief Executive and the Chairman.

An award in the form of an option will normally remain exercisable until the tenth anniversary of the date of grant.

The Committee may allow awards to be settled in cash (in whole or part) where the Committee considers it appropriate to do so.

For future awards which are not Recovery Awards, the Committee may impose such performance conditions as it considers appropriate which must be satisfied before any such award will vest.

A performance condition may be altered if circumstances or events are such that the Committee, acting fairly and reasonably, considers that it would be appropriate to do so. Any altered performance condition shall not be materially less difficult to satisfy than the original performance condition.

Specific features of Recovery Awards related to the Loan Notes

Recovery Awards will reflect the commercial impact of the Loan Notes in the following ways:

- The exercise of the conversion rights under the Loan Notes (whether in whole or in part) on any occasion will not result in adjustment of the Share Price targets for Recovery Awards as described above;
- The exercise of the conversion rights under the Loan Notes (whether in whole or in part) will result in proportionate increases in the number of Shares within Recovery Awards to maintain participants' percentage award holdings (by reference to the percentage of issued share capital which these awards represented at the date when the first Recovery Awards are granted after the 15 December 2017 General Meeting);
- If less than 50% of the conversion rights under the Loan Notes have been exercised by the first Share Price test date at the third anniversary of the award date of the Recovery Awards, the first Share Price test date will be 3.5 years from the award date of the Recovery Awards (rather than 3 years from the grant, although any performance vested shares from this assessment may still vest on the fourth anniversary of the award date).

Orderly Marketing

It shall be a term and condition of an individual's participation in the PSP that all dealings in shares to be acquired from the PSP shall only be by arrangement with the Company's nominated broker from time to time, and failure to comply will entitle the Company to apply the 'malus and clawback' provisions of PSP as considered appropriate by the Committee.

Payment on account of dividends

Unless the Committee decides otherwise prior to the normal vesting date, a participant will receive a payment (in Shares or cash), on or shortly following vesting of his conditional share award or exercise of his option, of an amount equivalent to the dividends that would have been paid on the Shares vested under the award between the time when the award was granted and the time when it vested (and assuming reinvestment in Shares on the relevant ex dividend dates).

Leaving employment

As a general rule, an award will lapse upon a participant leaving the employment of the Company's group. However, if before the vesting of an award a participant ceases to be a director or employee within the Company's group by reason of death, injury, ill-health or disability, statutory redundancy, retirement with the agreement of his or her employer, the sale of the participant's employing business by the group or other circumstances which the Committee determines in its discretion, then the award will be retained and may vest on the normal vesting date to the extent determined by the performance conditions measured over the full performance period, unless determined otherwise by the Committee.

The Committee may, at its discretion, allow awards to vest in such circumstances at the time of cessation of employment, in which case awards would normally be subject to the performance conditions as measured over the shorter period to the date of cessation of employment.

In either case, there will also be a pro-rata reduction in the size of the award for the time that has elapsed up to the date of cessation compared to the vesting period (which for Recovery Awards will be 3 years) unless the Committee determines that it would be inappropriate to apply a pro-rata reduction in the particular circumstances.

Where an individual holding a vested award leaves the Company's employment, the individual will be able to exercise that vested award within 12 months of the date of cessation of employment, unless the reason for such cessation is the individual's misconduct in which case the award will lapse.

Corporate events

In the event of a takeover, scheme of arrangement or winding up of the Company (not being an internal corporate reorganisation), all awards may vest early to the extent that the performance conditions have, in the opinion of the Committee, been satisfied at that time.

In the event of an internal corporate reorganisation, awards will be replaced by equivalent new awards over shares in a new holding company, unless the Committee decides that awards should vest on the same basis as described above.

Awards may also vest on the same basis if a demerger, special dividend or other similar event is proposed which, in the opinion of the Committee, would affect the market price of

the Shares to a material extent.

Variation of capital

In the event of any variation of the Company's share capital, or in the event of a demerger, payment of a special dividend or other similar event which materially affects the market price of the Shares, the Committee may make such adjustments as it considers appropriate to the number of Shares subject to an award and/or the exercise price payable (if any). For Recovery Awards, the exercise of conversion rights under the Loan Notes will allow for adjustments in the number of Shares subject to the Recovery Awards as detailed above.

Malus and Clawback

The Committee retains a power to reduce the potential vesting of unvested awards (including to zero) (often referred to as 'malus') or to recoup the value of previously vested awards from an individual within 3 years of the date of vesting if it considers it appropriate to do so (often referred to as 'clawback').

The Committee may choose to exercise this power in circumstances of:

- a material misstatement of results;
- errors, or inaccurate or misleading information leading to incorrect vesting of awards;
- misconduct of the individual if sufficiently serious to permit summary dismissal;
- breach of "orderly marketing" (see Orderly Marketing section above);
- other circumstances which, in the Committee's opinion, have a significantly adverse impact on the Company's reputation (or would have if made public) to justify the operation of clawback.

In the circumstances of misconduct by the individual, the period for the potential operation of clawback is not limited to 3 years.

Participants' rights

Awards will not confer any shareholder rights on participants until the awards have vested and the participants have received their Shares.

Rights attaching to Shares

Any Shares allotted when an award vests (or for an award structured as an option, when it is exercised) will rank equally with all other Shares then in issue (except for rights arising by reference to a record date prior to their allotment).

Alterations

The Committee may alter the PSP or any terms of an award at any time in any respect. No alterations may be made to the material disadvantage of any participant or in respect of any rights already acquired by him (other than a change in any performance condition) without the consent of a majority of participants responding to any relevant request.

Proposed Awards to Russell Black and Paul Goodson

Whilst not awarded under the terms of the PSP, it is proposed to make awards of "restricted stock" to Russell Black and Paul Goodson after the 2017 General Meetings. Such awards are not linked to performance and will have the following key features:

- The proposed awards to each individual represent awards over 0.12% of current issued share capital;
- In line with awards to the Chairman and Chief Executive, such awards will reflect the transfer of Employers' National Insurance Contributions and the numbers of Shares will be further "grossed up" by c.16.7% to compensate the holders of the awards for this transfer of liability;
- The "restricted stock" share awards will vest after 3 years, subject to continued service as a Director;
- Good leaver and change of control provisions similar to those for PSP awards (as described above) will apply;
- The awards made will be counted towards the overall 15% of issued share capital from time to time available for Recovery Awards;
- As for Recovery Awards, the exercise of the conversion rights under the Loan Notes (whether in whole or in part) will result in proportionate increases in the number of Shares within the "restricted stock" awards for the Non-executives which will maintain the individuals' percentage award holdings (by reference to the percentage of issued share capital which these awards represented at the date when the first Recovery Awards are granted after the 15 December 2017 General Meeting).

This announcement contains inside information for the purposes of Article 7 of Regulation (EU) 596/2014.

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