Being: SPX Guidance Note

For: Disclosure of Information by Listed Entities

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INTRODUCTION

As per the South Pacific Stock Exchange (SPX) Listing Rules Section 39.2, the Exchange requires companies whose securities are traded on the Exchange to make prompt and adequate public disclosure of material events or developments in their affairs. An entity which lists its securities on the Exchange in effect invites the public to invest in those securities. Thus, the Exchange considers that a company has an obligation to disclose to the public the information necessary to make informed investment decisions.

NEED FOR THE GUIDANCE NOTES

The rules have a general clause regarding materiality of information provided by the companies. In order to conduct an active, a fair and orderly market, the Exchange sees it necessary to require every listed entity to make available to the public information necessary for informed investing on securities. Such information shall be correct, sufficient and timely. In addition, a listed company shall take reasonable procedures to ensure that all who invest in its securities enjoy equal access to such information. To comply with this fundamental principle, the Exchange sets forth the guidelines concerning disclosure of material information.

GUIDELINES

Immediate Public Disclosure of Material Information

1. Immediate disclosure should be made of information about a company or about events or conditions in the market for the listed securities in either of the following circumstances:
   a) where the information is likely to have a significant effect on the price trading of any of the listed securities; or
   b) where such information is likely to be considered important by a reasonable investor in making an investment decision.

   It shall be deemed the responsibility of a listed entity to determine which information is material and must be disclosed under the above mentioned standards, as the listed company is in the best position to know which information is material to the company's business. In case of doubt, the company shall consult with the Exchange.

2. Any material information of a factual nature that bears on the price of a listed company's securities or on decisions as to whether or not to invest or trade in such securities shall be disclosed. Included is information concerning the company's property, business, financial condition and prospects, consolidations and acquisitions, and major dealings with employees, suppliers, customers and others, as well as information concerning a significant change in ownership of the company's securities owned by insiders or controlling persons of the company. The listed entity is not required to disclose the company's internal estimates or projections of its earnings or of other data relating to its affairs. If such estimates or projections are released, they

should be prepared carefully, with a reasonable factual basis, and should be stated realistically, with appropriate qualifications. Moreover, if such estimates or projections subsequently appear to have been mistaken, they should be promptly and publicly corrected.

Immediate Release Policy

Dividend announcements, mergers, acquisitions, tender offers, stock splits, major management changes, and any substantive items of unusual or non-recurrent nature are examples of news items that should be handled on an immediate release basis. News of major new products, contract awards, expansion plans, and discoveries very often fall into the same category. Unfavourable news should be reported as promptly and candidly as favourable news. Reluctance or unwillingness to release a negative story or an attempt to disguise unfavourable news endangers management's reputation for integrity. Changes in accounting methods to mask such occurrences can have a similar impact.

It should be a company's primary concern to assure that news will be handled in proper perspective. This necessitates appropriate restraint, good judgment, and careful adherence to the facts. Any projections of financial data, for instance, should be soundly based, appropriately qualified, conservative and factual. Excessive or misleading conservatism should be avoided. Likewise, the repetitive release of essentially the same information is not appropriate.

Few things are more damaging to a company's shareholder relations or to the general public's regard for a company's securities than information improperly withheld. On the other hand, a volume of press releases is not to be used since important items can become confused with trivia.

Premature announcements of new products whose commercial application cannot yet be realistically evaluated should be avoided, as should overly optimistic forecasts, exaggerated claims and unwarranted promises. Should subsequent developments indicate that performance will not match earlier projections; this too should be reported and explained.

Judgment must be exercised as to the timing of a public release on those corporate developments where the immediate release policy is not involved or where disclosure would endanger the company's goals or provide information helpful to a competitor. In these cases, the company should weigh the fairness to both present and potential shareholders who at any given moment may be considering buying or selling the company's stock.

Cases where a listed entity is not required to promptly disclose material information

In the following circumstances a company may temporarily refrain from publicly disclosing material information, provided that complete confidentiality is maintained:

a) When negotiations are being held but an agreement has not been reached. Although public disclosure is generally necessary to protect the interests of investors, circumstances may occasionally arise where disclosure would prejudice a company's ability to achieve a valid corporate objective by disclosing in midst of negotiations. Public disclosure of a plan to acquire certain real estate, for example, could result in an increase in the company's cost of the desired acquisition or could prevent the company from carrying out the plan at all. In such

circumstances, as non-disclosure is more favourable, disclosure may properly be deferred to a more appropriate time.

b) When the facts are in a state of flux and a more appropriate moment for disclosure is imminent. Occasionally the company's plans or developments may give rise to material information but is subject to rapid change. If the situation is about to stabilize or resolve itself in the near future, it may be proper to withhold public announcement until a firm conclusion has been made, since successive public announcements concerning the same subject but based on changing facts may confuse or mislead the public. In the course of a negotiation for the acquisition of another company, for example, the only information known to each party at the outset may be the willingness of the other to hold discussions. Shortly thereafter it may become apparent to the parties that it is likely an agreement can be reached. Finally, agreement in principle may be reached on specific terms. In such circumstances a company need not issue a public announcement at each stage of the negotiations, describing the current state of constantly changing facts, but may await agreement in principle on specific terms. If, on the other hand, progress in the negotiations should stabilize at some other point, disclosure should then be made if the information is material.

c) When information is based on assumptions and beliefs and it is insufficiently indefinite to disclose it.

d) When release of the information would be a direct breach of law.

Dissemination of information to securities analysts, journalists, shareholders and others

The Exchange recommends that companies observe an "open door" policy in dealing with analysts, journalists, shareholders and others. However, under no circumstances should disclosure of material corporate developments be made on an individual or selective basis to analysts, shareholders or other persons unless such information has previously been fully disclosed and disseminated to the public. In the event that material information is inadvertently disclosed on the occasion of any meetings with analysts or others, it must be publicly disseminated as promptly as possible by the means described above. The company shall avoid any appearance of preference to partiality in the release or explanation of information. Thus, at meetings with analysts or other special groups, representatives of the news media and newspapers should be permitted to attend.

Unwarranted Promotional Disclosure

A listed entity shall refrain from promotional disclosure information which exceeds that necessary to enable the public to make informed investment decisions. Such information includes:

a) inappropriately worded news releases;
b) public announcements not justified by actual developments in the company's affairs;
c) exaggerated reports or predictions; and
d) flamboyant wording and other forms of over-stated or over-zealous disclosure activity which may mislead investors and cause unwarranted price movements and activity in the company's securities.

Disclosure activity beyond that necessary to inform investors and explicable essentially as an attempt to influence securities prices is considered to be unwarranted and promotional. The distinction between legitimate public relations activities and such promotional activity is one that must necessarily be drawn from the facts of a particular case.

The following are frequent earmarks of promotional activity:

a) a series of public announcements unrelated in volume or frequency to the materiality of actual developments in a company's business and affairs;
b) premature announcement of products still in the development stage with unproven commercial prospects;
c) promotions and expense-paid trips, or the seeking out of meetings or interviews with analysts and financial writers, which could have the effect of unduly influencing the market activity in the company's securities and are not justified in frequency or scope by the need to disseminate information about actual developments in the company's business and affairs;
d) press releases or other public announcements of a one-sided or unbalanced nature; or
e) company or product advertisements which in effect promote the company's securities.

Insider Trading

Insiders shall not trade on the basis of material information which is not known to the public. Moreover, insiders should refrain from trading, even after material information has been disclosed, for a period sufficient to permit evaluation of the information by investors.

Immediate public disclosure of the information in question must be made if the company should learn that insider trading has taken or is taking place. In unusual cases, where the trading is insignificant and did not have any influence on the market and measures sufficient to halt the insider trading and prevent its recurrence are taken, exceptions might be made which should be discussed with the Exchange. The Exchange can provide current information regarding market activity in the company's securities with which to help assess the significance of such trading.

Whenever material information is being temporarily withheld, the strictest confidentiality must be maintained, and the company should be prepared to make an immediate public announcement if necessary. During this period, the market action of the company's securities should be closely watched, since unusual market activity frequently signifies that a "leak" may have occurred.

How to maintain confidentiality of material information being temporarily withheld:

1. Internal Handling of Confidential Corporate Matters

   Negotiations leading to mergers and acquisitions, stock splits, the making of arrangements preparatory to an exchange or tender offer, changes in dividend rates or earnings, calls for redemption, and new contracts, products, or discoveries are the type of developments where the risk of untimely and inadvertent disclosure of corporate plans are most likely to occur. Frequently, these matters require extensive discussion and study by corporate officials before final decisions can be made. Accordingly, extreme care must be used in order to keep the information on a confidential basis.

Where it is possible to confine formal or informal discussions to a small group of the top management of the company or companies involved, and their individual confidential advisors where adequate security can be maintained, premature public announcement may properly be avoided. In this regard, the market action of a company's securities should be closely watched at a time when consideration is being given to important corporate matters. If unusual market activity should arise, the company should be prepared to make an immediate public announcement of the matter.

At some point it usually becomes necessary to involve other persons to conduct preliminary studies or assist in other preparations for contemplated transactions, e.g., business appraisals, tentative financing arrangements, attitude of large outside holders, availability of major blocks of stock, engineering studies and market analyses and surveys. Experience has shown that maintaining security at this point is virtually impossible. Accordingly, fairness requires that the company make an immediate public announcement as soon as disclosures relating to such important matters are made to outsiders.

The extent of the disclosures will depend upon the stage of discussions, studies, or negotiations. So far as possible, public statements should be definite as to price, ratio, timing and/or any other pertinent information necessary to permit a reasonable evaluation of the matter. As a minimum, they should include those disclosures made to outsiders. Where an initial announcement cannot be specific or complete, it will need to be supplemented from time to time as more definitive or different terms are discussed or determined.

Corporate employees, as well as directors and officers, should be regularly reminded as a matter of policy that they must not disclose confidential information they may receive in the course of their duties and must not attempt to take advantage of such information themselves.

In view of the importance of this matter and the potential difficulties involved, the Exchange suggests that a periodic review be made by each company of the manner in which confidential information is being handled within its own organization. A reminder notice of the company's policy to those in sensitive areas might also be helpful.

A sound corporate disclosure policy is essential to the maintenance of a fair and orderly market. It should minimize the occasions where the Exchange finds it necessary to temporarily halt trading in a security due to information leaks or rumours in connection with significant corporate transactions.

While the procedures are directed primarily at situations involving two or more companies, they are equally applicable to major corporate developments involving a single company.

2. Relationship between Company Officials and Others

A company should not give information to one inquirer which it would not give to another, nor should it reveal information it would not willingly give or has not given to the press for publication. Thus, for companies to give advance earnings, dividend, stock split, merger, or tender information to analysts, whether representing an institution, brokerage house, investment advisor, large shareholder, or anyone else, would clearly violate Exchange policy. On

the other hand, it should not withhold information in which analysts or other members of the investment public have a warrantable interest.

If during the course of a discussion with analysts substantive material not previously published is disclosed, that material should be simultaneously released to the public.

3. Directors

Every director has a fiduciary obligation not to reveal any privileged information to anyone not authorized to receive it. Not until there is full public disclosure of such data, particularly when the information might have a bearing on the market price of the securities, is a director released from the necessity of keeping information of this character to himself.

Any director of a company who is a partner, officer, or employee of a member organization should recognize that his first responsibility in this area is to the company on whose board he serves. Thus, a member firm director must meticulously avoid any disclosure of inside information to his partners, employees of the firm, his customers or his research or trading departments.

Where a representative of a member organization is not a director but acts in an advisory capacity to a company, the rules regarding confidential matters should be substantially the same as those that apply to a director. Should any matter require consultation with other personnel of the organization, adequate measures should be taken to guard the confidential nature of the information to prevent its misuse within or outside the member organization.

Insider trading after the release of material information:

How soon after the release of material information the insiders may begin to trade depends both on the rapidness and thoroughness of dissemination. In addition, following dissemination of the information, insiders should refrain from trading until the public has had an opportunity to evaluate it thoroughly. In the case of disclosure of uncomplicated information where the effect of the information on investment decisions is readily understandable, as in the case of earnings, the required waiting period will be shorter than where the information is complicated and must be interpreted before its bearing on investment decisions can be evaluated. The waiting period is, therefore, dependent on the circumstances. The Exchange recommends that, under the guideline on thorough dissemination of information, insiders should wait for at least twenty-four hours after the general publication of the release has been adequately disseminated. Where publication is not so widespread, a minimum waiting period of up to 5 working days is recommended.

Procedures to be taken by listed entities to prevent improper insider trading:

Listed entities should require its directors, officers, employees and other insiders to report their purchases or sales of the company's securities to prevent trading by using inside information, and to avoid any question of the propriety of insider purchases or sales. One such procedure might require corporate insiders to restrict their purchases and sales of the company's securities to periods following the release of annual statements or other releases setting forth the financial condition and status of the company.

Dealing with Rumours or Unusual Market Activity

The market activity of a company's securities should be closely watched at a time when consideration is being given to significant corporate matters. If rumours or unusual market activity indicate that information on impending developments has leaked out, a frank and explicit announcement is clearly required. If rumours are in fact false or inaccurate, they should be promptly denied or clarified. A statement to the effect that the company knows of no corporate developments to account for the unusual market activity can have a salutary effect. It is obvious that if such a public statement is contemplated, management should be checked prior to any public comment so as to avoid any embarrassment or potential criticism. If rumours are correct or there are developments, an immediate candid statement to the public as to the state of negotiations or of development of corporate plans in the rumoured area must be made directly and openly. Such statements are essential despite the business inconvenience which may be caused and even though the matter may not as yet have been presented to the company's Board of Directors for consideration.

Timely Disclosure of Material Information

A listed entity is expected to release immediately to the Exchange any news or information which might reasonably be expected to materially affect the market for its securities. This is one of the most important and fundamental obligation of the listed company towards the market.

“Immediately” in this context means that a listed company should take all reasonable steps to release market announcements to the Exchange as soon as it becomes aware of the material information. The information must be released to the Exchange first before it is released to any other party.

Content and Preparation of a Public Announcement

The content of a press or other public announcement is as important as its timing. Each announcement should:-

1. be factual, clear and succinct;
2. contain sufficient quantitative information to allow investors to evaluate its relative importance to the activities of the company;
3. be balanced and fair. Thus, the announcement should avoid:-
    (a) omission of important unfavourable facts, or the slighting of such facts, e.g. by "burying" them at the end of a press release;
    (b) presentation of favourable possibilities as certain, or as more probable than is actually the case;
    (c) presentation of projections without sufficient qualification or without sufficient factual basis;
    (d) negative statements phrased so as to create a positive implication, e.g., "The Company cannot now predict whether the development will have a materially favourable effect on its earnings," (creating the implication that the effect will be favourable even if not materially favourable), or "The Company expects that the development will not have a materially favourable effect on earnings in the

immediate future," (creating the implication that the development will eventually have a materially favourable effect); and

(e) use of promotional jargon calculated to excite rather than to inform.

4. avoid over-technical language, and should be expressed to the extent possible in language comprehensible to the layman;
5. explain, if the consequences or effects of the information on the company's future prospects cannot be assessed, why this is so; and
6. clarify and point out any reasonable alternatives where the public announcement undertakes to interpret information disclosed.

Consultation between the Exchange and Listed Entities

Listed companies are urged to contact the Exchange as early as possible whenever problems are encountered or anticipated in interpreting or applying these disclosure guidelines. By means of such advance consultation, effective liaison between companies and the Exchange can be maintained.

Guideline Review

This guideline must be reviewed every two years from the guideline implementation date or earlier if required.

Guideline Implementation

This guideline is implemented and effective from 1st day of September 2010.