

Being: SPX Guidance Note

For: Procedures for Trading Halt, Suspension and Delisting

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INTRODUCTION

As per the South Pacific Stock Exchange (SPX or Exchange) Listing Rules Section 71 the SPX may at any time halt or suspend the trading of securities in the company, whether requested by a company or not, if the SPX considers it necessary for the protection of investors or the maintenance of an orderly market. Furthermore, as per the SPX Listing Rules Section 74.1 the SPX may at any time delist the company, whether requested by a company or not, if the SPX considers this necessary.

NEED FOR THE GUIDANCE NOTES

The rule does not specify what procedures would be followed when the Exchange decides to impose a trading halt or suspension on a listed security or delist a listed security. This notice therefore would provide a practical guideline which needs to be followed when the Exchange decides to take the above step and it will ensure the protection of the market as a whole.

This Guidance Note must always be read in complementary with the SPX Listing Rules.

GUIDELINES

Trading Halt

A trading halt is a break in trading which is not a suspension. The temporary nature of a trading halt reflect the general principle that interruptions to trading should be kept to a minimum while affording companies the opportunity to manage specific disclosure issues as and when they arise.

Trading halt can be granted at the request of an entity or imposed by the Exchange.

Voluntary Trading Halt

Where an entity itself seeks a trading halt, the company shall submit a board resolution for the trading halt together with the following:

- a) Reasons in detail for the trading halt
- b) Proposed length of trading halt
- c) Event expected to happen that will end the trading halt or suspension
- d) Any other information necessary to inform the market about the trading halt

Use of trading halt will assist a company manage its continuous disclosure obligations. Although a company may not be required to disclose information in certain circumstances under Rule 39.5 and 39.6, it may be possible for the listed entity to provide some information provided that information does not mislead the market. Examples of situations where trading halt can be used if information is likely to affect the price or value of the listed security cannot be released immediately are as follows:

- a) Media comment about the company is sufficiently specific and detailed to warrant a response but the company is not able to make a response immediately;
- b) The Exchange has queries about a change in the price or trading pattern of an entity's securities and the company cannot reply in the time required.

The Exchange encourages companies to request for a trading halt whenever a company is not able to make an immediate announcement or is concerned that such an announcement may not be sufficient to properly inform the market.

In most cases the request and the reasons for the trading halt will be disclosed to the market.

The Exchange is mindful that the interruptions to trading should be kept to a minimum and is not likely to approve a trading halt where request is made for administrative or marketing challenges.

Before agreeing to a trading halt, the Exchange must be satisfied with the reasons for which it has been requested and make it subject to compliance with such conditions as the Exchange thinks proper.

A trading halt cannot extend past the close of trading on the day for which it is granted.

When the Exchange imposes a Trading Halt

The Exchange may impose a temporary trading interruption in an entity's listed securities for the following reasons:

- Prior to receiving price sensitive information. The Exchange will impose this by placing the securities in a Pre-Opening phase as prescribed under the SPX Business Rules. Upon announcement of the price sensitive information, the trading halt may remain for such a period that the Exchange thinks fit to allow the price sensitive information to penetrate through the market.
- Pending clarification from an entity on a rumour that may have a significant impact on the price or value of the listed securities. If rumours indicate that information on impending developments has leaked out, a frank and explicit announcement is clearly required. Failure by a company to make an announcement accepting or denying the rumour can result in the Exchange halting trading in the listed entity's securities.
- When an unusual movement in the share price or traded volume of a security is noted. A statement to the effect that the company is or is not aware of any corporate developments to account for the unusual market activity has to be released by the company. Failure by a company to make an announcement to this effect can result in the Exchange halting trading in the listed company's securities.

Implementation of the halt will be announced and the reason for the halt will be stated by the Exchange.

A trading halt may end once the company makes an announcement. This will result in the resumption of normal trading in the entity's securities. ***A trading halt imposed by the Exchange cannot extend past the close of trading on the day for which it is granted.***

Suspension

The Exchange may suspend from trading a security listed in accordance with its rules. Similar to trading halt, a company can request for a suspension or it can be imposed by the Exchange.

Voluntary Suspension

Suspension at the request of the company will be made on the same grounds as voluntary trading halts. Generally, if the company believes that the period allowed for trading halt is not sufficient for the company to be able to manage its continuous disclosure obligations, it will seek a voluntary suspension.

The Exchange is opposed to long voluntary suspensions. In recognition of the general principle that interruptions to trading should be minimized as far as possible, the Exchange will only grant a voluntary suspension if it considered that it was in the interest of a fair, orderly and informed market. In granting such requests the Exchange may require the company to comply with certain conditions. **A voluntary suspension may be granted for a period not exceeding one month.**

Suspension by the Exchange

If the Exchange imposes a trading halt and the company fails to make an announcement within the time prescribed by the Exchange, the Exchange can suspend trading in the entity's securities. Other reasons for suspending trading in an entity's securities are as follows:

- Market capitalization of the listed entity falls below the minimum value required for listing;
- When a listed company is going through administration/liquidation;
- When a listed company fails to lodge the annual financial statement with the Exchange within three months from the financial year end;
- When the Exchange considers that the listed company does not have a sufficient level of working capital;
- If there is a compulsory acquisition following a takeover;
- When a company has continued to contravene the Listing Rules for more than 10 days after being notified of the contravention; and
- In any other circumstances that the Exchange considers proper in the interest of a fair, orderly and informed market.

The Exchange will immediately convey to the company whose shares are being suspended, the reasons for suspension and any conditions that need to be complied with by the company in order for the suspension to be uplifted.

Delisting

A company can be delisted from the official list of the Exchange in accordance with the SPX Listing Rules and this guideline.

The SPX may after considering all relevant circumstances, delist a Listed Entity, whether requested by a Listed Entity or not, in any of the following circumstances:

- i. if the Listed Entity fails or ceases to comply with any of the requirements of the Listing Application and Agreement - Annexure A;
- ii. Suspension in trading for six (6) months or more;
- iii. the SPX considers it necessary for the protection of investors or the maintenance of an orderly market;

- iv. if any fee for listing has not been paid within thirty (30) days of the due date;
- v. in the event of a delisting, no portion of the listing fee is refundable. However, if during the calendar year of delisting a Listed Entity is re-listed, no further fee is payable for the balance of that calendar year; unless there is an increase in the issued capital of the Securities which had been previously listed or the type/class of the Securities has been altered during the period of delisting or Suspension; or
- vi. in any other circumstance that the SPX considers proper in its absolute discretion.

Request for Delisting by Listed Entities

A listed entity or majority shareholders that desires to seek delisting of its shares from the official list of the Exchange shall, forward their applications to the Exchange, stating clearly and in detail, together with any supporting evidence, the reasons for delisting.

Where the Exchange has advised the applicant that it is willing to consider granting approval, the company **shall within fourteen (14) days** advise its shareholders by letter and the public by notice published in the daily newspaper of its proposal to delist its shares from the official list of the Exchange, with reasons, and invite all those who wish to object to such delisting to write to the Exchange **within twenty one (21) days** stating the reasons for such objection.

The Exchange shall examine all objections received and **shall within twenty one (21) days determine whether approval shall be granted or not.**

Where approval for delisting is granted, such approval shall be subject to the following:-

1. The applicant shall obtain the approval of three fourth of its minority shareholders present in person or by proxy at an extraordinary general meeting convened to pass the special resolution to delist the shares of such company, provided there is a quorum and twenty one (21) days' notice of the meeting has been given to all the shareholders; and
2. Provided the resolution to delist the shares of such entity is passed with the required majority, the Directors shall arrange for the purchase of the shareholdings of the shareholders, other than those who voted in favour of the resolution to delist, who wish to sell their shareholdings at a price to be determined by the Exchange based normally on the price at which the shares of such company have been traded during the preceding six months, or where it is deemed necessary by independent valuation on the criteria commonly used to determine the market value of a share. This is to be carried out by the independent directors of the listed entity (especially if the application for delisting has been made by the majority shareholders). Shareholders shall give notice in writing to the company of their intention to sell their shares within three (3) weeks of the date on which the resolution to delist was passed.
3. On the purchase at the determined price within a period of three (3) months of the final determination of a price or such extended period as may be allowed by the Exchange, of all the shares of persons entitled to sell the shares and wish to do so at the determined price, the Exchange shall remove such shares from the official list.

Delisting by the Exchange

If a listed entity remains suspended for a period of three (3) months and/or the Exchange believes that it is in the best interest of shareholders and the market to delist the entity, the delisting procedures will be implemented.

If the Exchange should determine that a security be removed from the list, it will so notify the listed entity in writing, describing the basis for such decision and the specific policy or criterion under which such action is to be taken. The notice to the listed entity will also inform the entity of its right to a review of the determination by SPX Listing Committee, provided a **written request for such a review is filed with the Exchange within ten business days after receiving the aforementioned notice**. Such written request must state with specificity the grounds on which the company intends to challenge the determination of the Exchange and must indicate whether the company desires to make an oral presentation to the Committee.

If the listed entity does not request a review within the specified period, the Exchange continues with the delisting procedures below.

If a review is requested, the review will be scheduled for at a date and time convenient to all parties involved. The Committee's review and final decision will be based on oral argument (if any) and the written briefs and accompanying materials submitted by the parties. The entity will not be permitted to argue grounds for reversing the Exchange's decision that are not identified in its request for review, however, the company may ask the Committee for leave to adduce additional evidence or raise arguments not identified in its request for review, if it can demonstrate that the proposed additional evidence or new arguments are material to its request for review and that there was reasonable ground for not adducing such evidence or identifying such issues earlier.

Upon review of a properly supported request, the Committee may in its sole discretion permit new arguments or additional evidence to be raised before the Committee. Following such event, the Committee may, as it deems appropriate, (i) itself decide the matter, or (ii) remand the matter to the management for further review. Should the Committee remand the matter to the management, the Committee will instruct the management to (i) give prompt consideration to the matter, and, (ii) complete its review and inform the Committee of its conclusions no later than seven (7) days from the date the matter is remanded to the management.

If the Committee decides that the security should be removed from listing, the Exchange will:

1. issue a public notice through media of proposed delisting and post this notice on the SPX website;
2. allow a time period of 15 days within which representation may be made to the SPX Listing Committee by any person who may be aggrieved by the proposed delisting;
3. refer all representations received from aggrieved persons to the SPX Listing Committee and where necessary respond to the representations made by aggrieved persons based on the recommendations of the Committee;
4. issue a press release notifying the public that the company is no longer listed on the SPX, stating the reasons as to why it was removed from the official list.

Where the entity is delisted by the Exchange, the directors of the company shall be liable to compensate the shareholders of the company by paying them the fair value of the shares held by them and acquiring their shares, unless they opt to remain shareholders with the company.

Fair value of shares shall be determined by experts appointed by the Exchange who will take into consideration, account valuation parameters including, book value, comparable trading multiples, and such other parameters as are customary for valuation of shares of such entities.