

## Reprint

as at 6 November 2008

# Insider Trading (Approved Procedure for Company Officers) Notice 1996

(SR 1996/53)

Insider Trading (Approved Procedure for Company Officers) Notice 1996: re-  
voked, on 6 November 2008, by clause 3 of the Regulations Revocation Order  
2008 (SR 2008/367).

PURSUANT to section 8(1)(c) of the Securities Amendment Act  
1988, the Securities Commission gives the following notice.

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#### Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989  
have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together  
with other explanatory material about this eprint.

**This notice is administered in the Securities Commission.**

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**Schedule**

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**Procedures for selling or buying securities in public  
issuers by directors, company secretaries, and  
employees**

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**1 Title and commencement**

- (1) This notice may be cited as the Insider Trading (Approved Procedure for Company Officers) Notice 1996.
- (2) This notice shall come into force on the day after the date of its notification in the *Gazette*.

**2 Interpretation**

- (1) In this notice, unless the context otherwise requires,—  
**The Act** means the Securities Amendment Act 1988  
**Exchange** means the New Zealand Stock Exchange  
**Quarterly reporting issuer** means a public issuer, the board of directors of which has passed a resolution to require—
  - (a) The public issuer to announce through the Exchange the results of the public issuer for the first and third quarters of each financial year; and
  - (b) The announcement of those results in accordance with the listing rules of the Exchange for the announcement of half-yearly results as if the first and third quarters of each financial year were a financial half-year.
- (2) Any term or expression that is not defined in this notice, but that is defined in the Act, has the meaning given to it by the Act.

**3 Approval of procedures for selling or buying securities  
in public issuers by directors, company secretaries, and  
employees**

The procedures for selling or buying securities of a public issuer by a director, company secretary, or employee of the public issuer set out in the Schedule to this notice are hereby approved in relation to public issuers generally.

**4 Revocation**

The Insider Trading (Approved Procedure for Company Officers) Notice 1993<sup>1</sup> is hereby revoked.

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**Schedule**

**Procedures for selling or buying securities  
in public issuers by directors, company  
secretaries, and employees**

**1 Procedure I**

Before selling or buying the securities of the public issuer of which he or she is a director, company secretary, or employee, the director, company secretary, or employee must give written notice to the public issuer of his or her intention to sell or buy the securities, which notice must be signed and dated and include—

- (a) The name and address of the director, company secretary, or employee; and
- (b) The office or position held by that person in the public issuer; and
- (c) The class and number of securities that are the subject of the proposed transaction; and
- (d) A statement describing the type of transaction; and
- (e) A statement as to whether it is intended that the transaction will take place on a stock exchange, and if not, details of the transaction; and
- (f) The likely date of the transaction; and
- (g) A statement that the decision to sell or buy the securities has not been made on the basis of inside information; and
- (h) In the case of a purchase of securities, a statement that the director, company secretary, or employee does not intend to sell the securities within 6 months of purchase; and

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<sup>1</sup> SR 1993/88

- (i) A statement that the director, company secretary, or employee believes the transaction will be at a fair value; and
- (j) A request that the public issuer consent to the sale or purchase of the securities.

**2**

On receiving the notice, the public issuer, acting through its board of directors or by an officer of the public issuer or of any wholly-owned subsidiary of the public issuer, being a subsidiary incorporated in New Zealand, appointed by and acting on behalf of the board of the public issuer, must consider the request contained in the notice and, if reasonably satisfied as to the truth of the statements required by paragraphs (g), (h), and (i) of clause 1 of this Procedure, may consent in writing to the proposed transaction. The securities must not be sold or purchased unless—

- (a) The public issuer has consented to the transaction in accordance with this clause; and
- (b) Arrangements exist to ensure that copies of every consent given in accordance with this clause are distributed—
  - (i) To the directors of the public issuer; or
  - (ii) Where an officer of the wholly-owned subsidiary of the public issuer acted on behalf of the board of the public issuer in consenting to the transaction, being a public issuer incorporated outside New Zealand, and the board of the public issuer has authorised the directors of that subsidiary to receive copies of such consent, to the directors of that subsidiary—

before the board meeting next after the consent is given.

**3**

In the case of a quarterly reporting issuer, the securities must be sold or purchased—

- (a) Not later than 15 trading days after the consent of the issuer is given; and
- (b) During one of the following periods:
  - (i) The period commencing on the day after the day on which the results of the issuer for the most

recently completed financial year of the issuer are announced through the Exchange in accordance with the listing rules of the Exchange and ending on the close of the first quarter of the current financial year of the issuer:

- (ii) The period commencing on the day after the day on which the results of the issuer for the first quarter of the current financial year of the issuer are announced through the Exchange in accordance with the listing rules of the Exchange that apply to the announcement of financial half-year results and ending on the close of the current financial half-year of the issuer:
- (iii) The period commencing on the day after the day on which the results of the issuer for the most recently completed financial half-year of the issuer are announced through the Exchange in accordance with the listing rules of the Exchange and ending on the close of the third quarter of the current financial year of the issuer:
- (iv) The period commencing on the day after the day on which the results of the issuer for the third quarter of the current financial year of the issuer are announced through the Exchange in accordance with the listing rules of the Exchange that apply to the announcement of financial half-year results and ending on the close of the current financial year of the issuer.

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In the case of a public issuer, other than a quarterly reporting issuer, the securities must be sold or purchased—

- (a) Not later than 15 trading days after the consent of the public issuer is given; and
- (b) During either of the following periods:
  - (i) The period commencing on the day after the day on which the results of the issuer for the most recently completed financial year of the issuer are announced through the Exchange in accordance

with the listing rules of the Exchange and ending 5 months after the end of that financial year:

- (ii) The period commencing on the day after the day on which the results of the issuer for the most recently completed financial half-year of the issuer are announced through the Exchange in accordance with the listing rules of the Exchange and ending 4 months after the end of that financial half-year.

## 1 Procedure II

This Procedure applies in respect only of the following types of transactions:

- (a) The selling or buying of securities of the public issuer pursuant to—
  - (i) Any compromise or arrangement sanctioned by the Court under section 205 of the Companies Act 1955, including any order made under section 207 of that Act, (as those sections are continued in force by section 35 of the Companies Amendment Act 1993), before the 1st day of July 1994; or
  - (ii) Any amalgamation effected under Part 5A of the Companies Act 1955 or Part 13 of the Companies Act 1993, as the case may be; or
  - (iii) Any compromise approved under Part 5B of the Companies Act 1955 or Part 14 of the Companies Act 1993, as the case may be; or
  - (iv) Any arrangement, amalgamation, or compromise approved by the Court under section 209R of the Companies Act 1955, including any order made under section 209S of that Act, or under section 236 of the Companies Act 1993, including any order made under section 237 of that Act, as the case may be; or
  - (v) Any reorganisation or reconstruction of the public issuer that involves all the securities of the same class:

- (b) The selling or buying of rights to subscribe for securities of the public issuer (being rights listed and quoted on the Exchange and offered to all security holders of the same class by means of a current registered prospectus) during the period stated in that prospectus as the period during which such rights may be sold or purchased:
- (c) The buying of securities of the public issuer by way of the exercise of rights to subscribe for any such securities, being rights referred to in paragraph (b) of this clause:
- (d) The selling of securities of the public issuer where—
  - (i) The proceeds are to be used solely to buy rights to subscribe for securities of the public issuer that are offered to all security holders of the same class by means of a current registered prospectus; and
  - (ii) The sale occurs during the offer period stated in that prospectus:
- (e) The selling of securities of the public issuer as the result of the acceptance of an offer to buy the securities made by means of an announcement through the Exchange or a stock exchange in any other country on which the securities are listed, being an offer that—
  - (i) Was made in accordance with the rules of the Exchange or that other stock exchange, as the case may be; and
  - (ii) Remained open for acceptance for a period of not less than 21 trading days:
- (f) The acquisition of securities of the public issuer pursuant to a bonus issue of securities to all security holders of the same class:
- (g) The buying of securities of the public issuer pursuant to an allotment made under a dividend reinvestment plan of the public issuer where the dividend reinvestment plan is available to all security holders of the same class.

2

Before selling or buying the securities of the public issuer of which he or she is a director, company secretary, or employee, in a transaction to which this Procedure applies, the director,

company secretary, or employee must give written notice to the public issuer of his or her intention to sell or buy the securities, which notice must be signed and dated and include—

- (a) The name and address of the director, company secretary, or employee; and
- (b) The office or position held by that person in the public issuer; and
- (c) The class and number of securities that are the subject of the proposed transaction; and
- (d) A statement describing the type of transaction; and
- (e) A statement as to whether it is intended that the transaction will take place on a stock exchange, and, if not, details of the transaction; and
- (f) The likely date of the transaction; and
- (g) A statement that the decision to sell or buy the securities has not been made on the basis of inside information.

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### **Explanatory note**

*This note is not part of the notice, but is intended to indicate its general effect.*

This notice replaces the Insider Trading (Approved Procedure for Company Officers) Notice 1993.

Section 7 of the Securities Amendment Act 1988 imposes liability on an insider who has inside information about a public issuer and who deals in the securities of the public issuer. Under section 8 of the Act, a director, company secretary, or employee of the public issuer is not liable under section 7 if—

- (a) The securities are sold or purchased in that person's own name or in the name, or on behalf, of that person's spouse or child; and
- (b) In selling or buying the securities that person complies with a procedure operated by the public issuer for ensuring that no director, company secretary, or employee uses inside information in selling or buying securities of the public issuer for personal gain; and
- (c) The procedure is approved by the Securities Commission by notice in the *Gazette* in relation to—



- (i) Public issuers generally; or
  - (ii) Public issuers generally other than any specified public issuer; or
  - (iii) Any specified public issuer; and
- (d) The Securities Commission has not withdrawn that approval.

This notice approves, in relation to public issuers generally, the procedures set out in the *Schedule* to the notice for dealing in securities by directors, company secretaries, and employees.

Procedure *I* is substantially the same as Procedure I of the Insider Trading (Approved Procedure for Company Officers) Notice 1993 but is extended to public issuers that report quarterly. Procedure I of that notice applies only in relation to public issuers that report annually and half-yearly.

In the case of public issuers that report quarterly, the sale or purchase of the securities must take place within 15 trading days after the consent of the public issuer is given and within one of the periods specified in clause 3 of the new Procedure I.

These periods are:

- (a) The period commencing on the day after the day on which the results of the most recently completed financial year are reported and ending at the end of the first quarter of the current financial year:
- (b) The period commencing on the day after the first quarter results of the current financial year are reported and ending at the end of the first half-year of the current financial year:
- (c) The period commencing on the day after the day on which the results of the most recently completed financial half-year are reported and ending at the end of the third quarter of the current financial year:
- (d) The period commencing on the day after the third quarter results of the current financial year are reported and ending at the end of the current financial year.

In the case of public issuers that do not report quarterly, the sale or purchase of the securities must take place within 15 trading days after the consent of the public issuer is given and within one of the periods specified in clause 4 of the new Procedure I. These periods are:

- (a) The period commencing on the day after the day on which the results of the most recently completed financial year are

reported and ending 5 months after the end of that financial year:

- (b) The period commencing on the day after the day on which the results of the most recently completed financial half-year are reported and ending 4 months after the end of that financial half-year.

Procedure *II* is the same as Procedure II of the Insider Trading (Approved Procedure for Company Officers) Notice 1993 except that clause *I(a)* has been altered to take account of recent changes to the Companies Act 1955 and the enactment of the Companies Act 1993. Clause *I(a)* will now apply to the sale or purchase of securities of a public issuer under—

- (a) Any compromise or arrangement sanctioned by the High Court under section 205 of the Companies Act 1955, including any order made under section 207 of that Act, (which sections are continued in force by section 35 of the Companies Amendment Act 1993);
- (b) Any amalgamation effected under Part 5A of the Companies Act 1955 or Part 13 of the Companies Act 1993; or
- (c) Any compromise made under Part 5B of the Companies Act 1955 or Part 14 of the Companies Act 1993; or
- (d) Any arrangement or amalgamation or compromise approved by the High Court under section 209R of the Companies Act 1955, including any order made under section 209S of that Act, or under section 236 of the Companies Act 1993, including any order made under section 237 of that Act; or
- (e) Any reorganisation or reconstruction of the public issuer that involves all the securities of the same class.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 28 March 1996.

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## **Notes**

### **1 *General***

This is an eprint of the Insider Trading (Approved Procedure for Company Officers) Notice 1996. It incorporates all the amendments to the notice as at 6 November 2008. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

### **2 *About this eprint***

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

### **3 *List of amendments incorporated in this eprint (most recent first)***

Regulations Revocation Order 2008 (SR 2008/367): clause 3

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