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## Guidance on the dissemination of price sensitive information

### ***Introduction***

Stock markets need a flow of relevant and timely information to function efficiently and most companies have the objectives both of actively seeking to inform the market and of meeting their regulatory obligations. Of course, it has to be recognised that, even when the information has been announced, some investors will receive and respond to it more quickly than others.

This guidance is intended to help companies meet the two objectives outlined in paragraph one. It is based on the premise that communication between companies and the market is desirable and should be of positive benefit to both. It recognises the value to both companies and the market of a dialogue between analysts and a company which builds up a view of a business's potential. It does not represent a new layer of regulation.

While this guidance is directed primarily at companies, advisers, institutional shareholders and analysts will find it helpful to take note of its contents. (The term 'analysts' includes analysts representing institutional fund managers, as well as broking firms.)

Situations will inevitably arise which are not covered by the guidance. It cannot constrain judicial or regulatory decisions by the courts or the Exchange or remove the need for companies to make their own judgements. Such judgements, logically and honestly made, will carry weight with the Exchange if, in the light of subsequent events, enquiries are made. We hope and expect that other regulatory authorities will take a similar view.

### ***Price sensitive information***

1 The regulatory framework seeks to secure as fair a distribution of information as is practicable. The Listing Rules place a general obligation on companies to disclose certain information which is not public knowledge and which may lead to a substantial movement in the price of its securities. Such information will include major new developments, changes in the company's financial condition or business performance or changes in the company's expectation of its performance. Information must always be given to the market as a whole, by an announcement to the Company Announcements Office. Companies are free to use additional media, but selective disclosure of price sensitive information, without an announcement, is never acceptable.

2 A company's regulatory obligation is thus to ensure that information which emanates from itself,

its advisers or agents is given to the market as a whole and is sufficient and not inaccurate or misleading.

3 The Listing Rules permit the Exchange to grant a dispensation from the requirement to make an announcement where disclosure of the relevant information might prejudice a company's legitimate interests. This dispensation will only be granted in very limited circumstances.

4 It is not feasible to define any theoretical percentage movement in a share price which will make a piece of information price sensitive. Attempts at a precise definition of 'price sensitive' are not possible, since it is generally necessary to take into account a number of factors specific to the particular case, in addition to the information itself, which cannot be captured in a mechanistic formula. These include the price and volatility of the share and prevailing market conditions. No such definition is included in the relevant legislation.

5 However, price sensitive information will potentially have a significant effect on a company's share price. In particular, a company should be able to assess whether an event or information known to the company would have a significant effect on future reported earnings per share, pre-tax profits, borrowings or other potential determinants of the company's share price. The Listing Rules indicate many events which have to be announced to the market because they may be price sensitive. These include dividend announcements, board appointments or departures, profit warnings, share dealings by directors or substantial shareholders, acquisitions and disposals above a certain size, annual and interim results, preliminary results, rights issues and other offers of securities. In other areas judgement will necessarily be required. This guidance seeks to assist in these judgements by conveying the spirit within which investor communications are to be conducted.

6 Companies should remember that, in general, the more specific the information, the greater the risk of it being price sensitive. For that reason, companies should not disclose significant data, least of all financial information such as sales and profit figures, to selected groups rather than to the market as a whole. Even within these constraints, there is plenty of scope for companies to hold a useful dialogue with their shareholders and other interested parties about their prospects, business environment and strategy (particularly in the medium and long term).

#### ***A framework for investor communication***

7 Investor communication needs to be carefully planned, with clear objectives and procedures. In particular:

- the overall policy for control and dissemination of price sensitive information is the

responsibility of the Board, although its execution will usually be delegated. Companies should have a consistent procedure for determining what information is sufficiently significant for it to be price sensitive and for releasing that information to the market

- responsibility for communication with analysts, investors and the press should be clearly defined. Many problems and uncertainties have arisen because companies have not identified those responsible for communication. If a few employees are clearly identified who are aware of the company's policy and the legal and regulatory requirements, the senior management of a company will be better able to control the dissemination of information and reduce the chance of unauthorised or careless disclosure. Staff should be prohibited from communicating information if they are not nominated. Companies may find it helpful to identify to analysts and press those employees responsible for communications
- companies should consider making their internal policies on communication known outside the company. This may be particularly helpful if companies wish to avoid being pressured into prematurely revealing information which is confidential (the policy could, for example, include a statement that a company never comments on a market rumour, or refuses to comment on retail performance in the Christmas period before a given date)
- companies should make arrangements to keep price sensitive information confidential until the moment of announcement. They must not allow this information to seep into the public domain; companies sometimes attempt to justify this practice as a means of allowing a share price to adjust gradually to unexpected information. However, this is unfair to shareholders and potential investors and is unlikely to change the long-term impact of the information
- where appropriate, companies should make use of their advisers to assist in determining whether information is potentially price sensitive. Advisers have day to day experience of assessing market expectations and are obliged to keep information confidential. If, after discussion, doubt over the sensitivity of information remains, the company should avoid selective disclosure and make an announcement.

### ***Guidance to analysts***

8 As noted in paragraph three, companies have the main responsibility for the proper conduct of their relationships with the market. But several of the sections in this guidance set out the way in which companies relationships with analysts are to be conducted. Analysts themselves need to be

aware of and operate within this framework if the relationship is to work smoothly.

### ***Regular statements on a company's position***

9 Some problems with price sensitive information could be overcome if more companies had a structured communications plan with regular updates on their trading position and immediate prospects. Companies may choose to use, for example, their quarterly internal management information as the basis for a regular trading statement at the end of each period for which accounts are produced. This practice is especially helpful if market expectations are out of line or there is a long gap between the end of the period and publication of the interim or preliminary results.

10 This statement may include a few key financial figures and an explanation of underlying trading conditions but it need not be detailed or complex or normally require an independent audit or external review. Alternatively the update can be primarily concerned with general comments on the company's overall performance and any variance from previous statements and need not include financial figures.

### **The following paragraphs give guidance to companies on particular situations and issues which they may encounter**

#### ***Release of price sensitive information***

11 There are many events which can trigger significant movements in share prices, such as information on a new product, the fact that sales of a new product are not meeting expectations, or that the company has obtained a large order or embarked on a major redundancy programme. It is vital to make a prompt assessment of the likely impact of the information. To assist this process, companies and their advisers should be aware of the market expectations built into the company's share price.

12 There is a risk that price sensitive information may appear in a trade journal, an internal briefing or other limited means of communication. The company should be alert to the impact of such information and consider whether a formal announcement is appropriate.

13 If a meeting is to be held (eg, with shareholders, analysts or a press conference), companies should consider in advance how to respond to questions designed to elicit price sensitive information. If it is planned to disclose price sensitive information, the information should not be given at the meeting before it is announced to the market.

14 Where companies issue lengthy releases either to shareholders or to the market as a whole which include comments on current or future trading prospects, this information should be given due prominence and not hidden in the body of the announcement.

#### ***Handling of unexpected developments***

15 If a company is faced by an unexpected and significant event, for example a large foreign exchange loss, where an announcement would normally be required, a short delay is acceptable if it is necessary to clarify the situation. A holding announcement should be used where a company and its advisers believe that there is a danger of information leaking out where the facts are not yet in a position to be confirmed. The announcement should give an outline of the subject matter, the reasons why a fuller announcement cannot be made, and an undertaking to announce further details as soon as possible. In extreme circumstances, a company may ask the Exchange to suspend trading in its shares until the company is able to clarify the position.

#### ***Handling of confidential information***

16 Companies are sometimes confronted with the problem of how long to keep an issue confidential and what constitutes the proper time for its release. There are many processes which are inherently price sensitive where it is essential to maintain confidentiality until the major elements have been finalised and where premature release of information would be more misleading than informative. Such processes include, for example, the development of a new product, the planning of a major redundancy programme, the negotiation of significant financing arrangements, or the preparation of a takeover or partial disposal. Once these issues have been finalised an announcement should be made, unless a dispensation has been granted by the Exchange to avoid prejudicing a company's legitimate interests. However, if, during negotiations, the circle of parties involved becomes too large to ensure the confidentiality of the information, or there is a danger that information has leaked to parties not directly involved, an announcement should be made.

#### ***The annual report and annual general meeting***

17 Companies are encouraged to make the most of existing opportunities for communicating with investors. In particular, through the annual report, or through the Chairman's address to the annual general meeting, a company may reinforce its corporate messages in non-technical terms and provide indicators of its future direction. While the annual general meeting is an opportunity for investors to discuss with directors issues affecting the company, arrangements must be made for any price sensitive information that is to be discussed at the meeting to be included in an

announcement to the Company Announcements Office at or before the time of the meeting.

### ***Inadvertent dissemination of information***

18 If price sensitive information is inadvertently given to, for example, an analyst or journalist, the company on first becoming aware that this has occurred should take immediate steps to ensure that a full announcement is made so that all users of the market have access to the same information.

### ***Profit forecasts***

19 If a company has made a public forecast but subsequently becomes aware that the outcome will be materially above or below the forecast figure, a further announcement should be made correcting the forecast as soon as possible.

### ***Questions from analysts and correction of analysts' forecasts***

20 Analysts can play a constructive role in assisting the market in its understanding and valuation of companies. Companies are encouraged to assist analysts where possible in forming a view of their activities and trading prospects. Companies should, however, have a firm policy about the extent to which analysts' questions should be answered. For example, companies can explain information already in the public domain or discuss the markets in which they operate. They should decline to answer analysts' questions where individually or cumulatively the answers would provide price sensitive information. If analysts' comments or views appear inaccurate (because they are based, for example, on a mistaken view of sales growth) companies can consider what public information is available to be drawn to their attention.

21 It is in the nature of analysts' forecasts that they should differ - sometimes significantly. In most circumstances a company is not obliged to make an announcement correcting public forecasts by analysts. However, a company should correct serious and significant errors which come to its attention which in its view have led to a widespread and serious misapprehension in the market.

22 Inaccurate forecasts by analysts are more likely to mislead the market in the case of small companies which may be researched by only one or two analysts and where there is little information on the company in the public domain. These companies may therefore be more likely to be in the position of having to make a corrective statement because the market is being seriously misinformed.

### ***Draft reports from analysts***

23 If an analyst sends a company a draft report for its comments the company can, of course, refuse to respond. Companies certainly should not be drawn into correcting incorrect price sensitive information or assumptions. Companies may choose to correct information that is either already in the public domain or cannot be regarded as price sensitive, irrespective of the source.

### ***Conduct of meetings with analysts***

24 Some companies are concerned that they may be misinterpreted or mistakenly accused of providing price sensitive information following meetings with analysts. These companies should, if they think it necessary, look at internal procedures to reduce these risks. These procedures could, for example, include ensuring that more than one company representative is present during these meetings and that accurate records of all discussions are kept.

25 In particular companies should be aware of the danger of analysts obtaining price sensitive information during visits to the companies' premises. Employees meeting the analysts during the visit should be briefed as to the extent and nature of information that can be communicated.

### ***Questions from journalists***

26 Relationships with the press and other media, though often contributing to a well informed market, need particularly careful management in instances where potentially price sensitive information is involved.

27 For example, companies can be confronted with questions by journalists about rumours circulating in the market. Companies should be prepared to give a 'no comment' answer where journalists are pressing for unannounced price sensitive information. Where there is a risk that sufficient price sensitive information has been collected for the reported story to be broadly accurate, a company should ensure that a proper announcement is made to guarantee that the correct information is widely available. This is preferable to attempting to refute the story by making counter-comments to sections of the press. A company will find it helpful to have established internal procedures for handling these queries.

28 When the market is closed over the weekend or overnight, announcements must be lodged with the Company Announcements office before or at the same time as the announcement is passed to the media. The Listing Rules require that the announcement is distributed to at least two national papers and two news wire services; just as information should not be passed to selected groups of analysts or investors, neither the company nor its advisers should feed price sensitive

information informally to particular newspapers or other media in an attempt to soften the impact of bad or controversial news.

### ***Close periods***

29 The term 'close period' applies to a period before any regular reporting event when the directors of a company cannot deal in its shares. Many companies make it an in-house rule that they will not communicate with the market during these periods. This is not a regulatory requirement. Even if companies do not wish to be pro-active in their investor communications during that period, they should announce price sensitive information where necessary.

### ***Making parties insiders***

30 At certain times, companies may want to give information in confidence to, for example, substantial shareholders or other parties with whom they are negotiating. Before a meeting at which price sensitive information is to be given, unless the relationship with the participants is automatically one of confidentiality (as it is, for example, with the companies' financial or public relations advisers, or solicitors) an established procedure should be followed. The relevant party should be told that, if he attends the meeting, he will not be able to deal in the company's securities before the information is made public. He should give consent to being made an 'insider' and this should be recorded. No one should be made an insider without his consent or for a longer period than necessary. The objective should be that all price sensitive information given in this way should be fully announced as soon as possible.

### ***Employees as insiders***

31 Employees may be made insiders. Some employees have regular access to price sensitive information because of their duties, while others will be in possession of price sensitive information only occasionally. They must be made aware of the need at all times to observe the confidentiality of unpublished information given to them. Companies that have a policy of keeping their employees informed in broad terms of the prospects and performance of the business should ensure that their 'in-house' publications or personal presentations to employees do not inadvertently include price sensitive information. Where detailed information, for example that relating to a particular division or subsidiary of a company, is provided, its confidential status should be made clear.

### ***Takeovers and mergers***

32 Companies which are or may become involved in a takeover or merger should also have

regard to the City Code on Takeovers and Mergers when considering the content and timing of announcements. The Code can be obtained from the Panel on Takeovers and Mergers, PO Box 226, The Stock Exchange Building, London EC2P 2JX.

### ***Announcements by industry regulators, trade associations and Government departments***

33 Announcements by industry regulators, trade associations, Government departments and other bodies may affect the share price of many companies; it is advisable for companies to have an agreed understanding of the sensitivity of such statements and their likely effect on market expectations with these organisations so that announcements can be made to the marketplace where appropriate.

### ***Dually listed stocks***

34 Companies listed on more than one stock exchange should co-ordinate the release of announcements in all countries so that investors in each country have access to the information at the same time. Where the requirements of one stock exchange go beyond those of the London Stock Exchange it is important to ensure that the information is also released in London. If a price sensitive announcement is made on another stock exchange while the London market is closed, a copy of the announcement should be lodged immediately with the Company Announcements Office.

## ***Appendix***

### ***Extracts from chapter 9 'Continuing Obligations' of The Listing Rules***

#### **General obligation of disclosure for companies**

1 A company must notify the Company Announcements Office without delay of any major new developments in its sphere of activity which are not public knowledge which may:

(a by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its listed securities; or)

(b in the case of a company with debt securities listed, by virtue of the effect of those developments on its assets and liabilities or financial position or on the general course of its business, lead to substantial movement in the price of its listed securities, or significantly affect its

ability to meet its commitments.)

2 Where to the knowledge of a company's directors there is such a change in the company's financial condition or in the performance of its business or in the company's expectation of its performance that knowledge of the change is likely to lead to substantial movement in the price of its listed securities, the company must notify to the Company Announcements Office without delay all relevant information concerning the change.

3 The requirements of paragraphs one and two are in addition to any specific requirements regarding notification contained in the listing rules.

4 A company need not notify to the Company Announcements Office information about impending developments or matters in the course of negotiation, and may give such information in confidence to recipients within the categories described in paragraph five. If the company has reason to believe that a breach of such confidence has occurred or is likely to occur, and, in either case, the development or matter in question is such that knowledge of it would be likely to lead to substantial movement in the price of its listed securities, the company must without delay notify to the Company Announcements Office at least a warning announcement to the effect that the company expects shortly to release information which may lead to such a movement.

5 The categories of recipient referred to in paragraph four are:

(a the company's advisers and advisers of any other persons involved or who may be involved in the development or matter in question;)

(b persons with whom the company is negotiating, or intends to negotiate, any commercial, financial or investment transaction (including prospective underwriters or placees of securities of the company); and)

(c representatives of its employees or trades unions acting on their behalf.)

The company must be satisfied that such recipients of information are aware that they must not deal in the company's securities before the relevant information has been made available to the public.

6 Information required by and provided in confidence to, and for the purposes of, a government department, the Bank of England, the Monopolies and Mergers Commission or any other statutory or regulatory body or authority need not be notified to the Company Announcements Office, unless, subject to the provisions of paragraph four, it is information to which paragraph one or two

applies.

7 Information that is required to be notified to the Company Announcements Office must not be given to anyone else before it has been so notified, except as permitted by paragraphs four, six and 10. Where it is proposed to announce at any meeting of holders of a company's listed securities information which might lead to substantial movement in their price, arrangements must be made for notification of that information to the Company Announcements Office so that the announcement at the meeting is made no earlier than the time at which the information is published to the market.

***Exception***

8 If a company considers that disclosure to the public of information required by paragraph one or two to be notified to the Company Announcements Office might prejudice the company's legitimate interests, the Exchange may grant a dispensation from the relevant requirement.

***Equivalent information***

9 A company whose securities are listed on the Exchange and on any other stock exchange must ensure that equivalent information is made available at the same time to the market at each of the Exchange (by way of notification to the Company Announcements Office) and each of such other exchanges.

***Notification when the Company Announcements Office is not open for business***

10 When an issuer is required by the listing rules to notify information to the Company Announcements Office at a time when the Company Announcements Office is not open for business, it must ensure that there is adequate coverage of the information by also distributing it to not less than two national newspapers in the United Kingdom and to two newswire services operating in the United Kingdom.