

**TRINIDAD AND TOBAGO
SECURITIES AND EXCHANGE COMMISSION**



**POLICY GUIDELINE ON LISTED COMPANIES’/REPORTING ISSUERS’
HANDLING OF PRICE SENSITIVE INFORMATION**

**PART I
INTRODUCTION AND PURPOSE**

1. INTRODUCTION

- 1.1 The Trinidad and Tobago Securities and Exchange Commission (the Commission) issues these guidelines to assist Listed Companies/Reporting Issuers, in the formulation of policies and procedures relating to the handling of price sensitive information, and the disclosure of such information to the public. The implementation of such policies and procedures is essential to developing sound disclosure practices which will promote confidence in the integrity of the local securities market. Listed Companies/Reporting Issuers are encouraged to establish clear written policies and procedures that deal effectively with the disclosure of Issuer information to investors and other members of the public.
- 1.2 It is fundamental to the efficient operation of a securities market that all investors have equal access to information that may affect their investment decisions. The Commission is concerned about selective disclosure of material corporate information by Listed Companies/Reporting Issuers, and specifically to brokers, analysts, institutional investors and other market professionals. The issue of selective disclosure is of concern to the Commission since persons who are made

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aware of such information before the general public, would be in a position to use that information to trade in securities for their personal benefit or for the benefit of others and to do so at the expense of those persons who are not privy to that information. The practice of selective disclosure can therefore lead to a loss of confidence in the integrity of the securities market and can also create opportunities for insider trading.

2. PURPOSE

2.1 These Guidelines have two objectives: to assist in ensuring that all investors have equal access to important information that may affect their investment decisions; and to assist companies in understanding their obligations and responsibilities in respect of public disclosures.

2.2 These Guidelines:

- a) provide examples of the types of information likely to be considered price sensitive under the Securities Industry Act, 1995 (“the SIA”).
- b) describe disclosure obligations for Reporting Issuers contained in the SIA 1995
- c) identify certain corporate disclosure “best practices” that may be adopted by companies to help manage their disclosure obligations
- d) address selected issues which are of concern to the Commission; and
- e) describe a mechanism for the review, compliance and enforcement of the policies implemented by Listed Companies

2.3 The recommendations outlined in these guidelines are not intended to be prescriptive. While Listed Companies/Reporting Issuers are encouraged to adopt the measures suggested, it is expected that when doing so, each company will give due consideration to the specific circumstances of its own operations.



PART II
PROVISIONS OF THE SIA 1995
PROHIBITING SELECTIVE DISCLOSURE

3. PRICE SENSITIVE INFORMATION

3.1 Under section 120 of the SIA 1995, price sensitive information means specific unpublished information which, if generally known, might reasonably be expected to affect materially the price or value of securities.

4. CONNECTED PERSONS

4.1 Section 121 of the SIA 1995 prohibits trading by “connected” persons with knowledge of price sensitive information. Sections 120 and 121 contain important provisions on the type of market misconduct commonly known as ~~Insider~~ Trading. A person is connected with an Issuer if he is a director of that Issuer or a “related” Issuer. The term “connected” also applies to officers or employees of an Issuer or related company, other than directors and persons who have a professional or business relationships with the Issuer or a related company, which relationship may give them access to price sensitive information about the Issuer or the related company.

5. SELECTIVE DISCLOSURE AND TIPPING

5.1 Section 121(8) prohibits a connected person from disclosing price sensitive information about securities to a third party if he knows or has reasonable cause to believe that such a person or some other person would make use of the information for the purpose of buying, selling or participating in any transaction in the securities on any securities exchange or on any other self-regulatory organization. This is the “tipping” prohibition. Section 121(8) gives statutory recognition to the fact that selective disclosure and tipping facilitate insider trading.



- 5.2 Issuers that deliberately practise selective disclosure of 'material' information or price sensitive information may be guilty of breaching the tipping provisions of the SIA 1995. Contravention of these provisions may also occur because of inadvertent disclosure of such information to selected persons.
- 5.3 A person who contravenes section 121 of the SIA 1995 is liable on summary conviction to a fine of \$50,000 and to imprisonment for 6 months, and on conviction on indictment to a fine of \$200,000 and to imprisonment for 2 years.

PART III

DISCLOSURE OBLIGATIONS

6. DEFINITIONS

- 6.1 The term "material change" is defined in section 3(1) of the SIA 1995 as follows:

' "material change", where used in relation to the affairs of an issuer, means a change in the business operations, assets or ownership of the issuer that would reasonably be expected to have a significant effect on the market price or value of the securities of the issuer and includes a decision to implement such a change made by the directors of the issuer.'

- 6.2 Section 3(1) also provides that:

' "material fact", where used in relation to securities issued or proposed to be issued, means a fact that significantly affects or could reasonably be expected to significantly affect the market price or value of those securities.'



7. MATERIAL CHANGE

- 7.1 Reporting Issuers are required by (section 66(3)) the SIA 1995 to disclose any “material change” in their affairs as soon as practicable but in any event **no later than 7 days after the change occurs**. For changes that an Issuer initiates, the change occurs once the decision has been made to implement the change. This may happen even before an Issuer's directors approve it, if the Issuer thinks it is probable they will do so. A material change is disclosed by issuing a press release disclosing the nature and substance of the change. The press release, which is required to be authorized by a senior officer of the Issuer, must also be dated and filed with the Commission concurrently with its issue.

PART IV

WHAT IS PRICE SENSITIVE INFORMATION?

8. EXAMPLES OF PRICE SENSITIVE INFORMATION

- 8.1 It is not the Commission's intention to create an exhaustive list of the types of information that may be considered price sensitive. However, the following are examples of types of information that may be considered price sensitive:
- a) significant increase or decrease in near-term earnings prospects;
 - b) earnings information including interim financial information, proposed dividend, and earnings per share;
 - c) proposed amalgamation, merger, acquisition, take-over bid, joint venture;
 - d) significant acquisition and disposal of assets;
 - e) development of a new product or any development which affects the Reporting Issuer's resources, technology, products or markets;
 - f) change in control or significant change in management;
 - g) significant change in capital investment plans or corporate objectives;
 - h) change in auditor or notification that the Reporting Issuer may no longer rely on an auditor's audit report;



- i) significant litigation;
- j) borrowing or lending a significant amount of funds or any mortgaging or encumbering of the Reporting Issuer's assets in any way;
- k) events regarding the Reporting Issuer's securities (for example, an event of default under a financing; a call of securities for redemption; a declaration or omission of dividends; any stock split, share consolidation, stock dividend, exchange, redemption or other change in capital structure)
- l) receivership or capital reorganization.

9. MAKING AN ASSESSMENT

- 9.1 The Commission does not suggest that each of the above items is necessarily price sensitive. It is the responsibility of each Reporting Issuer to determine what information is price sensitive information. In making such judgment, it is necessary to take into account a number of factors. What is price sensitive information would vary from Issuer to Issuer, depending upon, for example: the nature of the information itself, the size of the Issuer, its corporate culture, the industry, volatility of the Issuer's securities and prevailing market conditions. Where appropriate, Issuers should consult their professional advisers in determining whether specific information is price-sensitive.

PART V CONFIDENTIALITY

10. CONFIDENTIALITY

- 10.1 The SIA 1995 (section 66(4)(a)) permits a Reporting Issuer to delay disclosure of a material change and to keep such information confidential temporarily where immediate release of the information would be unduly detrimental to the Issuer's interests. For example, immediate disclosure might interfere with an Issuer's achievement of a specific objective, with ongoing negotiations, or with its ability to



complete a transaction. If the harm to an Issuer's business from disclosure outweighs the general benefit to the market of immediate disclosure, withholding disclosure may be justified. In such cases an Issuer may withhold public disclosure, but must advise the Commission, within 7 days of the change, of the reason why the Issuer should not be required to make a press release.

- 10.2 Section 66(4)(b) of the SIA 1995 permits the Issuer to withhold public disclosure of a material change, where the material change in the affairs of the Reporting Issuer consists of a decision to implement a change made by the directors of the Issuer and the directors and senior management of the Issuer have no reason to believe that any person with knowledge of the material change has made, or intends to make use of that information in purchasing or selling securities of the Issuer.
- 10.3 The SIA 1995 specifies the manner of disclosure of a material change. With the exception of disclosure in prospectuses for distributions, it does not require a particular method of disclosure of a material *fact*. Where no particular form of disclosure is mandated with regard to disclosure of information which may impact the price of a security, Issuers should ensure that the disclosure method employed results in wide dissemination of the information.
- 10.4 Information which can be characterized as a material fact or as relating to a material change may also constitute price sensitive information. Issuers should have regard to this fact when handling, and managing disclosure of, corporate information.
- 10.5 Confidentiality agreements are sometimes entered into by Issuers with persons whom they have shared material or price sensitive information in the necessary course of business. Such agreements do not provide a safe harbour if in fact the



disclosure by an Issuer to an individual is in fact not in the necessary course of business and is actually an instance of tipping.

11. MAINTAINING CONFIDENTIALITY

11.1 The Commission discourages Issuers from delaying disclosure for a lengthy period of time as it becomes increasingly unlikely that confidentiality can be maintained the longer the disclosure is put off. Where a material change is being kept confidential, the Reporting Issuer is under a duty to make sure that persons with knowledge of the material change have not made use of such information in purchasing or selling its securities. Persons in possession of such information, should also not disclose the information to any person, except for the proper performance of the functions attaching to their position.

11.2 Where disclosure of a material change is delayed, an Issuer must maintain complete confidentiality. During the period before a material change is disclosed, market activity in the Issuer's securities should be carefully monitored. Any unusual market activity may indicate that news of the matter has been leaked and that investors are taking advantage of it. If the confidential material change, or rumour of such, has leaked or appears to be impacting the market, an Issuer should take immediate steps to ensure that a full public announcement is made. The Issuer should contact the Stock Exchanges on which the securities are traded and ask that trading be halted pending the issue of a news release.

12. UNINTENTIONAL DISCLOSURE

12.1 If an Issuer makes unintentional selective disclosure the Issuer should take immediate steps to ensure that a full public announcement is made. The Issuer should contact the relevant Stock Exchanges and request that trading be halted pending the issuance of a news release. Pending the public release of the material information, the Issuer should also tell those parties who have knowledge of the



information, that the information is price sensitive and that it is not generally known. The public announcement must be as soon as is reasonably practicable but in any event no later than the commencement of the next day's trading.

PART VI
RELEASE OF MATERIAL CORPORATE INFORMATION

13. METHOD OF PUBLIC DISSEMINATION

13.1 Issuers should note that any information that relates to a material change or a material fact as defined in the SIA or that constitutes price sensitive information should be disseminated widely, preferably by means of a press release or at a press conference that interested members of the public may attend or listen to either in person by telephone, or by other electronic transmission. An Issuer need to give the public adequate notice of the conference or conference call by news release. The notice should state the date and time of the conference or conference call, a general description of the matter to be discussed and the means of accessing the conference or conference call. The notice should also indicate the period of time for which the Issuer will make a transcript or replay of the conference call available over its web site.

13.2 However, it should be noted that merely posting information on an Issuer's web site will not satisfy the requirement to disseminate it publicly. The public's access to the Internet is not widespread enough to make internet postings adequate for this purpose.

NB. BEST DISCLOSURE PRACTICES

Issuers should refer to the Commission's document entitled "Best Disclosure Practices" for guidance on their implementation of a comprehensive disclosure protocol.



**TTSEC POLICY GUIDELINE:
LISTED COMPANIES' HANDLING OF PRICE SENSITIVE INFORMATION**

NB: *The Trinidad and Tobago Securities and Exchange Commission advises that this document is issued only as a guide and is not meant to assist in the interpretation of securities legislation. Issuers should therefore obtain the advice of their Attorneys-at-Law to ensure that the policies they implement are appropriate to their specific circumstances.*