SGX-ST Listing Rules

Practice Note 7.1

Continuing Disclosure

Details	Cross References	Enquiries
Issue date: 28 January 2003 Effective date: 29 January 2003	Listing Rule 703 Appendix 7.1	Please contact Issuer Regulation Department:- 6236-8896 Daisy Tan 6236-8887 June Sim 6236-8895 Siew Wun Mui 6236-8880 Tang Yeng Yuen

1. Introduction

1.1 This Practice Note provides guidance on the continuing obligations of issuers in respect of the Exchange's Corporate Disclosure Policy. Issuers should apply the principles outlined in the Practice Note flexibly and sensibly. Issuers are still obliged to make their own judgments when determining whether a particular piece of information is material and requires disclosure. The purpose of timely disclosure of material information is to allow the operation of a fair and efficient market. The following discussion should be read in that light.

1.2 In case of doubt, issuers are encouraged to consult the Exchange with respect to the application of the rules.

2. What constitutes material information?

Examples of the types of information that could be material are provided under Paragraphs 4 and 8 of Appendix 7.1. However, no definitive list can be given. What may be considered material to one issuer may not be material to another. Hence each issuer must exercise its own judgment when deciding whether information is material. Apart from considering quantitative factors, an issuer should consider qualitative and circumstantial factors when deciding whether it is necessary to disclose a particular piece of information. These include trading history of the issuer, unexplained change in price or volume of the issuer's shares, volatility of the issuer's shares, operating environment of the issuer, and the total mix of information that is publicly available. As a guiding principle, an issuer should always consider whether a reasonable person would expect the information to be disclosed.

If an issuer is unable to ascertain whether the information is material, or is in any doubt about the availability of the exceptions from the requirement to disclose material information, the recommended course of action is to announce the information via MASNET.

3. Guidance on particular situations and issues

3.1 Are analysts' briefings and meetings with journalists, stockholders or any other persons permissible under the Corporate Disclosure Policy? In the event of inadvertent disclosure of material, non-public information during such briefings and meetings, what should an issuer do?

(a) The Exchange does not prohibit issuers from conducting briefings with analysts and holding meetings with groups of investors and the media. However, such meetings might create a perception that analysts, institutional investors, fund managers or media have access to information that is not generally available to the public and this may undermine investors' confidence in the existence of a level playing field. Hence, an issuer should have in place policies to minimize the risk of being perceived to be practising selective disclosure. Such policies might include pre-release of any prepared information intended for the briefings and meetings, for example slides or speeches, via MASNET. Alternatively, as such information must not be material, non-public information, it could be released on the issuer's website with an accompanying MASNET announcement to inform investors that additional information is available on the issuer's website. The second alternative may be preferred if the issuer intends to release large-sized files.

(b) Where an issuer inadvertently discloses material, non-public information during these briefings or meetings, the issuer must disseminate the information via MASNET as promptly as possible. An issuer may, if necessary, request for suspension of trading in its securities or a trading halt (upon implementation by the Exchange).

3.2 Can issuers post information on the Internet including on their websites?

The Exchange does not prohibit issuers from disseminating information through other media such as the Internet. Issuers are reminded that any material information released on the Internet, including posting of information on its own website, should have been previously released via MASNET, or should be simultaneously released via MASNET.

3.3 How should an issuer deal with the release of material information by professional advisers or third parties?

There may be instances where a third party releases information on behalf of, or relevant to, an issuer for example in the case of a takeover. Whenever possible, issuers should ensure that the announcement provided by the third parties is made under the issuer's name. By doing so, investors can conveniently locate all announcements relating to an issuer when they access MASNET. Third parties and professional advisers who do not represent the issuer are also encouraged to liaise with the issuer and make necessary arrangements to release any material announcement pertaining to the issuer under the issuer's name.

3.4 Under what circumstances would material information be considered to have been leaked? If material information has been leaked, what are the obligations of the issuer under the Corporate Disclosure Policy?

(a) Where material, non-public information has been reported but not released via MASNET, the Exchange will require clarification from an issuer to ensure that the market is trading on accurate information. In assessing whether there has been a

possible leakage of material information, the Exchange will take into consideration factors, such as the level of detail and any identified source of the information. To illustrate, should the report contain very specific information, for example precise value of contract, explicit financial impact, or the source has been attributed to a company spokesperson, this indicates that there may have been a leakage of material information. Leakage of material information would result in a loss of confidentiality and thus an issuer can no longer rely on the exemption under Rule 703(3).

(b) The Exchange officers peruse all major newspapers before the market opens for trading to check on reports against announcements made by issuers and to identify any reports which have not been announced by issuers via MASNET. The Exchange would normally not take any further action if it considers that the information in the report is speculative or frivolous unless there is a price or volume reaction in the market. The Exchange does not expect issuers to respond to all rumours or speculation. However, an issuer is expected to clarify the position if the information contained in the report or rumour is reasonably specific without there having been a previous announcement by the issuer, or if the issuer's share price or volume is reacting to the report or rumour.

(c) If the report suggests that there has been a leakage of material information, the Exchange officer will contact the issuer to discuss whether an announcement is required. If the issuer is of the view that the information reported is not material (and thus no announcement is necessary) and the Exchange is satisfied with the explanation given by the issuer, no further action by the issuer would be required for the time being. The Exchange will monitor the market for movement, and if there is unusual market activity that could be attributable to the report, the Exchange will contact the issuer requesting that an announcement be made.

The following guidelines in relation to dealing with leakage of material information apply: -

(i) an issuer is required to announce any material, non-public information that has leaked to the market even though it was covered by the exemptions (for example, regardless of whether the transaction is still undergoing negotiation) ;

(ii) if an issuer is not ready to confirm the information that was leaked or there is too much uncertainty, the issuer should release a holding statement to sufficiently explain the position; or

(iii) if an issuer is of the view that there has been no leak, but the market price or volume is reacting to the report, the issuer should release a statement to clarify the position, or confirm the report, even though the statement does not provide any new material information. If the issuer does not do this and a disorderly market exists in the Exchange's opinion, the Exchange may need to suspend the issuer's securities from trading.

3.5 If an issuer fails to respond to a query issued by the Exchange before the start of trading, will a suspension be imposed? Would a holding announcement stating that the Exchange is querying the issuer constitute sufficient information to allow the issuer's securities to continue trading?

The Exchange may suspend the trading of an issuer's securities if an issuer fails to respond before the start of trading or if trading has started and there is unusual market activity. The issuance of a holding announcement by the issuer stating that the Exchange is querying the issuer is not acceptable, as the investing public would still be trading on an uninformed basis. The Exchange is aware of the negative connotation that a suspension carries and for some issuers there may even be implications on their financial arrangements or business operations. A

decision to suspend trading is therefore not taken lightly. The Exchange will also be introducing trading halts to facilitate the release of announcements by issuers so that suspensions need not be initiated for such purposes.

3.6 Is an issuer exempted from the disclosure rules in the Listing Manual due to an undertaking of confidentiality or competitive concerns?

(a) An issuer must not agree to a confidentiality clause with any other parties, for example as part of contractual terms, which may result in it not being able to comply with the disclosure rules in the Listing Manual. This requirement does not apply if Rule 703(2) applies. The absence of a confidentiality clause does not mean that disclosure is required. Rules 703(2) or 703(3) may still apply, in which case, the issuer may withhold disclosure of the information.

(b) Similarly, an issuer also cannot rely on reasons, such as possible erosion of the issuer's competitiveness or unfavourable impact on the issuer's business to avoid complying with the disclosure rules in the Listing Manual.

3.7 Is it sufficient for an issuer to disclose just the value of the contract or new business arrangements without stating the resultant financial effects in its announcement?

When announcing the award of any contract or new business arrangements, for example distributorships, joint ventures and strategic alliances, an issuer must state clearly the financial impact (in terms of earnings per share or net tangible asset per share) arising from the transaction or provide an appropriate negative statement if there is none. By providing the financial impact on the issuer, investors will be able to put the announcement in perspective.

The Exchange recognizes that there may be some instances where an issuer is prevented from disclosing the financial impact with certainty. One example may be, the existence of certain variables that are outside the issuer's control, such as fulfillment of a contract on an ad-hoc basis or poor visibility as to when revenue is generated. Under these circumstances, the issuer should provide an explanation for the non-disclosure and sufficient information to enable investors to independently assess the financial impact taking into consideration the variables disclosed.

4. Securities and Futures Act (SFA)

Section 203 of the SFA creates a statutory obligation on an issuer and others to comply with the Exchange's Continuing Disclosure obligations. It says : -

*"**203.**—(1) This section shall apply to —*

(a) a corporation which is admitted to the official list of a securities exchange; or

(b) a responsible person of a collective investment scheme the units of which are quoted on a securities exchange,

if the corporation or responsible person is required by the listing rules of the securities exchange to notify the securities exchange of information on specified events or matters as they occur or arise for the purpose of the securities exchange making that information available to a securities market operated by the securities exchange.

(2) The corporation or responsible person must not intentionally, recklessly or negligently fail to notify the securities exchange of such information as is required to be disclosed under the listing rules of the securities exchange.

(3) Notwithstanding section 204, a contravention of subsection (2) shall not be an offence unless the failure to notify is intentional or reckless.

(4) For the purposes of this section, "responsible person" has the same meaning as in Division 2 of Part XIII."

Furthermore, under Section 331 of the SFA, an offence under the Act committed with the consent or connivance of, or attributable to any neglect on the part of, an officer of the body corporate makes that officer guilty of the offence as well.

The SFA clearly adds an additional dimension to the obligations to make disclosure and issuers should be mindful of such obligations when making decisions regarding disclosure.