

Memorandum

Model Code for Securities Transactions by Directors of Listed Issuers

July 2010

CHARLTONS
易周律師行
Solicitors

Hong Kong Office
12th Floor
Dominion Centre
43-59 Queen's Road East
Hong Kong

Tel: (852) 2905 7888
Fax: (852) 2854 9596

Shanghai Representative Office
Room 2006, 20th Floor
Fortune Times
1438 North Shanxi Road
Shanghai, PR China, 200060

Tel: (86) 21 6277 9899
Fax: (86) 21 6277 7899

Beijing Representative Office
3-1703, Vantone Centre
A6# Chaowai Avenue
Chaoyang District
Beijing, PRC, 100020

Tel: (86) 10 5907 3299
Fax: (86) 10 5907 329

www.charltonslaw.com

Please note that this memorandum is a summary and not exhaustive. It is for general information purposes only. Specific legal advice should be sought in relation to any particular situation.

MODEL CODE FOR SECURITIES TRANSACTIONS BY DIRECTORS OF LISTED ISSUERS (“MODEL CODE”)

Background

The Model Code consists of basic principles and rules. Both the basic principles and the rules of the Model Code sets a required standard against which directors must measure their conduct regarding securities transactions of their listed issuers. Any breach of the required standard will be a breach of the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong (the “Listing Rules”). A director must ensure that all dealings in which he is or is deemed to be interested be conducted in conformity with the code.

Basic Principles

A listed issuer may adopt its own code but the standard of the terms may not be lower than those set out in the Model Code. Any breach of its code will not be a breach of the Exchange Listing Rules unless it is a breach of the required standard.

The Stock Exchange of Hong Kong (the “Exchange”) encourages directors of a listed issuer to hold securities in the listed issuer.

Directors wishing to deal in any securities in a listed issuer must first abide by the provisions of Parts XIII and XIV of the Securities and Futures Ordinance with respect to insider dealing and market misconduct.

Most importantly, directors who are aware of or privy to any negotiations or agreements related to intended acquisitions or disposals which are notifiable transactions (Chapter 14 Listing Rules) or connected transactions (Chapter 14A Listing Rules) or any price-sensitive information must refrain from dealing in the listed issuer’s securities as soon as they become aware of them or privy to them until proper disclosure of the information in accordance with the Listing Rules. Directors who are privy to relevant negotiations or agreements or any price-sensitive information should caution those directors who are not so privy that there may be unpublished price-sensitive information and that they must not deal in the listed issuer’s securities for a similar period.

A director must not make any unauthorized disclosure of confidential information, whether to co-trustees or to any other person (even those to whom he owes a fiduciary duty) or make any use of such information for the advantage of himself or others.

Interpretation

(a) “dealing” includes, subject to paragraph (d) below, any acquisition, disposal or transfer of, or offer to acquire, dispose of or transfer, or creation of pledge, charge or any other security interest in, any securities of the listed issuer or any entity whose assets solely or substantially comprise securities of the listed issuer, and the grant, acceptance, acquisition, disposal, transfer, exercise or discharge of any option (whether call, put or both) or other right or obligation, present or future, conditional or unconditional, to acquire, dispose of or transfer securities, or any interest in securities, of the listed issuer or any such entity, in each case whether or not for consideration and any agreements to do any of the foregoing, and “deal” shall be construed accordingly;

(b) “beneficiary” includes any discretionary object of a discretionary trust (where the director is aware of the arrangement) and any beneficiary of a non-discretionary trust;

(c) “securities” means listed securities and any unlisted securities that are convertible or exchangeable into listed securities and structured products (including derivative warrants), such as those described in Chapter 15A of the Exchange Listing Rules, issued in respect of the listed securities of a listed issuer;

(d) notwithstanding the definition of “dealing” in paragraph (a) above, the following dealings are not subject to the provisions of this code:

- (i) taking up of entitlements under a rights issue, bonus issue, capitalisation issue or other offer made by the listed issuer to holders of its securities (including an offer of shares in lieu of a cash dividend) but, for the avoidance of doubt, applying for excess shares in a rights issue or applying for shares in excess of an assured allotment in an open offer is a “dealing”;
- (ii) allowing entitlements to lapse under a rights issue or other offer made by the listed issuer to holders of its securities (including an offer of shares in lieu of a cash dividend);
- (iii) undertakings to accept, or the acceptance of, a general offer for shares in the listed issuer made to shareholders other than those that are concert parties (as defined under the Takeovers Code) of the offeror;
- (iv) exercise of share options or warrants or acceptance of an offer for shares pursuant to an agreement entered into with a listed issuer before a period during which dealing is prohibited under this code at the pre-determined exercise price, being a fixed monetary amount determined at the time of grant of the share option or warrant or acceptance of an offer for shares;
- (v) an acquisition of qualification shares where, under the listed issuer’s constitutional documents, the final date for acquiring such shares falls within a period when dealing is prohibited under this code and such shares cannot be acquired at another time;

- (vi) dealing where the beneficial interest or interests in the relevant security of the listed issuer do not change;
- (vii) dealing where a shareholder places out his existing shares in a “top-up” placing where the number of new shares subscribed by him pursuant to an irrevocable, binding obligation equals the number of existing shares placed out and the subscription price (after expenses) is the same as the price at which the existing shares were placed out; and
- (viii) dealing where the beneficial ownership is transferred from another party by operation of law.

(e) For the purpose of this code, the grant to a director of an option to subscribe or purchase his company’s securities shall be regarded as a dealing by him, if the price at which such option may be exercised is fixed at the time of such grant. If, however, an option is granted to a director on terms whereby the price at which such option may be exercised is to be fixed at the time of exercise, the dealing is to be regarded as taking place at the time of exercise.

Rules

Section A Absolute Prohibitions

1. A director must not deal in any of the securities of the listed issuer at any time when he is in possession of unpublished price-sensitive information in relation to those securities, or where clearance to deal is not otherwise conferred upon him under rule B.8 of this code.

Note: “Price-sensitive information” means information described in rule 13.09(1) and the notes thereunder. In the context of this code, rule 13.09(1)(c) and its notes 9, 10 and 11 are of particular relevance.

2. A director must not deal in the securities of a listed issuer when by virtue of his position as a director of another listed issuer, he is in possession of unpublished price-sensitive information in relation to those securities.
3. A director must not deal in any securities of the listed issuer on any day on which its financial results are published and:
 - (i) during the period of 60 days immediately preceding the publication date of the annual results or, if shorter, the period from the end of the relevant financial year up to the publication date of the results; and
 - (ii) during the period of 30 days immediately preceding the publication date of the quarterly results (if any) and half-year results or, if shorter, the period from the end of the relevant quarterly or half-year period up to the publication date of the results,

unless the circumstances are exceptional, for example, where a pressing financial commitment has to be met as described in section C below. In any event, the director must comply with the procedure in rules B.8 and B.9 of this code.

The listed issuer must notify the Exchange in advance of the commencement of each period during which directors are not allowed to deal under this rule.

Note: Directors should note that the period during which they are not allowed to deal under rule A.3 of this code will cover any period of delay in the publication of a results announcement.

4. Where a director is a sole trustee, the provisions of this code will apply to all dealings of the trust as if he were dealing on his own account (unless the director is a bare trustee and neither he nor any of his associates is a beneficiary of the trust, in which case the provisions of this code will not apply).
5. Where a director deals in the securities of a listed issuer in his capacity as a co-trustee and he has not participated in or influenced the decision to deal in the securities and is not, and none of his associates is, a beneficiary of the trust, dealings by the trust will not be regarded as his dealings.
6. The restrictions on dealings by a director contained in this code will be regarded as equally applicable to any dealings by the director's spouse or by or on behalf of any minor child (natural or adopted) and any other dealings in which for the purposes of Part XV of the Securities and Futures Ordinance he is or is to be treated as interested. It is the duty of the director, therefore, to seek to avoid any such dealing at a time when he himself is not free to deal.
7. When a director places investment funds comprising securities of the listed issuer under professional management, discretionary or otherwise, the managers must nonetheless be made subject to the same restrictions and procedures as the director himself in respect of any proposed dealings in the listed issuer's securities.

Section B Notification

8. A director must not deal in any securities of the listed issuer without first notifying in writing the chairman or a director (otherwise than himself) designated by the board for the specific purpose and receiving a dated written acknowledgement.

In his own case, the chairman must first notify the board at a board meeting, or alternatively notify a director (otherwise than himself) designated by the board for the purpose and receive a dated written acknowledgement before any dealing.

The designated director must not deal in any securities of the listed issuer without first notifying the chairman and receiving a dated written acknowledgement. In each case:-

- (a) a response to a request for clearance to deal must be given to the relevant director within five business days of the request being made; and
- (b) the clearance to deal in accordance with (a) above must be valid for no longer than five business days of clearance being received.

Note: For the avoidance of doubt, the restriction under A.1 of this code applies in the event that price-sensitive information develops following the grant of clearance.

9. The procedure established within the listed issuer must, as a minimum, provide for there to be a written record maintained by the listed issuer that the appropriate notification was given and acknowledged pursuant to rule B.8 of this code, and for the director concerned to have received written confirmation to that effect.
10. Any director of the listed issuer who acts as trustee of a trust must ensure that his co-trustees are aware of the identity of any company of which he is a director so as to enable them to anticipate possible difficulties. A director having funds under management must likewise advise the investment manager.
11. Any director who is a beneficiary, but not a trustee, of a trust which deals in securities of the listed issuer must endeavour to ensure that the trustees notify him after they have dealt in such securities on behalf of the trust, in order that he in turn may notify the listed issuer. For this purpose, he must ensure that the trustees are aware of the listed issuers of which he is a director.
12. The register maintained in accordance with Section 352 of the Securities and Futures Ordinance should be made available for inspection at every board meeting.
13. The directors of a company must as a board and individually endeavour to ensure that any employee of the company or director or employee of a subsidiary company who, because of his office or employment in the company or a subsidiary, is likely to be in possession of unpublished price-sensitive information in relation to the securities of any listed issuer does not deal in those securities at a time when he would be prohibited from dealing by this code if he were a director.

Section C Exceptional Circumstances

14. If a director proposes to sell or otherwise dispose of securities of the listed issuer under exceptional circumstances where the sale or disposal is otherwise prohibited under this code, the director must, in addition to complying with the other provisions of this code, comply with the provisions of rule B.8 of this code regarding prior written notice and acknowledgement.

The director must satisfy the chairman or the designated director that the circumstances are exceptional and the proposed sale or disposal is the only reasonable course of action available to the director before the director can sell or dispose of the securities.

The listed issuer shall give written notice of such sale or disposal to the Exchange as soon as practicable stating why it considered the circumstances to be exceptional.

The listed issuer shall publish an announcement in accordance with rule 2.07C

immediately after any such sale or disposal and state that the chairman or the designated director is satisfied that there were exceptional circumstances for such sale or disposal of securities by the director.

An example of the type of circumstances which may be considered exceptional for such purposes would be a pressing financial commitment on the part of the director that cannot otherwise be satisfied.

Section D Disclosure

15. In relation to securities transactions by directors, a listed issuer shall disclose in its interim reports (and summary interim reports, if any) and the Corporate Governance Report contained in its annual reports (and summary financial reports, if any):
- (a) whether the listed issuer has adopted a code of conduct regarding securities transactions by directors on terms no less exacting than the required standard set out in this code;
 - (b) having made specific enquiry of all directors, whether its directors have complied with, or whether there has been any non-compliance with, the required standard set out in this code and its code of conduct regarding securities transactions by directors; and
 - (c) in the event of any non-compliance with the required standard set out in this code, details of such non-compliance and an explanation of the remedial steps taken by the listed issuer to address such non-compliance.

Please note that this memorandum is a summary and not exhaustive. It is for general information purposes only. Specific legal advice should be sought in relation to any particular situation.

July 2010