

CAPITAL MARKETS RULES

Capital Markets Rules

Chapter 5 of the Capital Markets Rules outlines the **continuing obligations** of public listed companies. Continuing obligations broadly relate to the following matters:

- Company announcements
- Periodic financial reporting requirements
- Audit Committee
- Corporate Governance
- Transactions by directors and officers

Capital Markets Rules

Company Announcements

- The main objective of company announcements is to bring useful and relevant facts to the attention of the market.
- Issuers shall be responsible to ensure that all company announcements are precise, clear and accurate and do not contain promotional, ambiguous, irrelevant or confusing material.
- The information which has to be disclosed by means of a company announcement **includes** the following:
 - price-sensitive facts which arise in virtue of the company's activities and which are not public knowledge;
 - any change in the board of Directors, company secretary or any other senior officers of the company;

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Company Announcements

- any resolution by the board of Directors for the merger or division of the company or any transaction outside the ordinary course of business of the company and/or its subsidiaries which is likely to materially affect the price of its securities;
- any material change to the company's capital structure, including the structure of its debt securities which are admitted to Listing;
- where the board of Directors determines that the results in respect of any published financial information materially differ by 10% or more from any published forecast or estimate or financial projections by the company, in which case the company announcement must contain an explanation of such difference (*NB - actual profit after tax vs forecast profit*);
- when the board of Directors of the company is advised or otherwise becomes aware that a firm intention or an offer has been made to acquire or dispose of a substantial shareholding in the company.

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Periodic Financial Reporting Requirements (transposed from the **Transparency Directive**)

Half-yearly financial report

- An issuer shall make public a half-yearly financial report covering the first 6 months of each financial year, which report shall be made available to the public as soon as it has been approved by the Directors.
- The half-yearly report must be made available to the public **not later than 2 months** after the end of the relevant period.

Annual financial report

- The company must ensure that its Annual Financial Report is made available to the public as soon as it has been approved by the Directors.
- The Capital Markets Rules stipulate that the Annual Financial Report must be approved and made available to the public by **not later than 4 months** after the end of each financial year and shall remain publicly available for a period of at least 10 years.

NB: For financial years beginning on or after 1 January 2021, all annual financial reports shall be prepared in a European-wide single electronic reporting format

Capital Markets Rules

The Audit Committee

In terms of the Capital Markets Rules, the company is to establish and maintain an Audit Committee, which is to meet at least 4 times a year and which satisfies the following criteria:

- It should be composed entirely of **non-executive directors** and have at least 3 members;
- The **majority** of such members shall be **independent** of the company;
- At least **one** member of the Audit Committee shall be **competent in accounting and/or auditing**;
- The **chairman** of the Audit Committee shall be appointed by the board of Directors of the company and shall be **independent** of the company.

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The Audit Committee – Related Party Transactions

The Audit Committee shall be responsible for vetting and approving Related Party Transactions (RPTs):

- International Accounting Standard 24 (IAS24) defines related party transactions (RPTs) as the **transfer of resources, services or obligations between related parties**, regardless of whether a price is charged. In instances where RPTs are not carried out on an **arms' length basis** there is the possibility that such transactions are made to the detriment of the company and its shareholders;
- Parties are considered to be related if one party has the ability to directly or indirectly control the other party or exercise significant influence over the other party in making financial and operating decisions;
- The Capital Markets Rules apply a **substance-over-form** principle in determining RPTs.

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Corporate Governance

- The company should endeavour to adopt the Code of Principles of Good Corporate Governance contained in the Capital Markets Rules (the “Code”) **and shall prepare a report** explaining how it has complied with the provisions of the said Code. To the extent to which the company departs from the Code, an **explanation by the company as to which parts of the Code it has departed from** and the reasons for doing so shall be included in the corporate governance statement contained in its Annual Financial Report; where the company has decided not to apply any provisions of the Code, it shall explain its reasons for not doing so.
- Accordingly, **while compliance with the Code is not mandatory, companies are required to disclose the extent to which they are compliant with the Code.**
- An Issuer shall not amend its M&As unless prior written authorisation has been sought and obtained from the MFSA.

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Transactions by directors and officers

A restricted person means: (i) the company's Directors or Directors of its subsidiary or parent undertaking; and (ii) any of its officers or employees or an officer or employee of its subsidiary or parent undertaking who, because of his/her office or employment in the company or subsidiary or parent undertaking, is likely to be in possession of **unpublished price-sensitive information** in relation to the company.

A restricted person shall not **deal, directly or indirectly**, in any of the securities of the company:

1. at any time when he/she is in **possession** of unpublished price-sensitive information in relation to those securities;
2. prior to the announcement of matters of an exceptional nature involving unpublished price-sensitive information in relation to the market price of the securities of the company;
3. on **considerations** of a short-term nature;
4. without giving advance written notice to the Chairman or one or more other Directors designated for this purpose. In his own case, the Chairman, or such other designated Director, shall not deal without giving advance notice to the board of Directors; and
5. during such other period as may be established by the MFSA from time to time.

During the period of 30 days immediately preceding any publication of the company's annual results, or the half yearly results, a restricted person shall not purchase or sell any securities.

MARKET ABUSE REGULATION

Inside Information

Article 7

- Set of circumstances which exist/reasonably expected to come into existence
- Event which has occurred/may reasonably be expected to occur specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances



Information of a **precise nature** which:

- has **not been made public relating to an issuer or financial instrument**, and
- which, **if made public, would likely have a significant effect on the price of said instrument**



Information a reasonable investor would be likely to use as part of the basis of his/her investment decisions

Insider Dealing

Article 8

- Where a person possesses inside information and uses that information by or recommends/induces another to:
 - acquire or dispose of, for its own account or for the account of a third party, directly or indirectly, financial instruments to which that information relates
 - cancel or amend an order concerning a financial instrument to which the information relates where the order was placed before the person concerned possessed the inside information
- The use of the recommendations or inducements will also amount to insider trading where the person knows or ought to know that it is based upon inside information

Insider Dealing

Article 8

- Applicable to any person who possesses inside information as a result of:
 - (a) being a member of the administrative, management or supervisory bodies of the Issuer
 - (b) having a holding in the capital of the Issuer
 - (c) having access to the information through the exercise of an employment, profession or duty, or
 - (d) being involved in criminal activities

+ under circumstances other than the above where the person knows or ought to know that it is inside information
- Where the person is a legal person, this shall also apply to the persons who participate in the decision to carry out the acquisition, disposal, cancellation or amendment of an order for the account of the legal person concerned

Unlawful Disclosure of Inside Information

Article 10

- Arises where a person possesses inside information and **discloses that information to any other person**
 - Except: where the disclosure is made in the normal exercise of an employment, profession or duty
- The onward disclosure of **recommendations or inducements**, where the person disclosing the recommendation or inducement **knows or ought to know** that it was based on inside information.

Market Sounding

Article 11

- The communication of information to investors prior to the announcement of a transaction to **gauge**:
 - the **interest** of potential investors
 - the conditions relative to the transaction, such as its potential **size** and **pricing**
- Disclosure of information by a person intending to make a takeover bid or a merger to persons entitled to the securities – provided:
 - Information is necessary to form an opinion on their willingness to offer their securities
 - Willingness of parties entitled to the securities to offer their securities is reasonably required for the decision to make the takeover bid or merger

Public Disclosure of Inside Information

Article 17

“Issuer”:

- Requested or approved admission of their financial instruments to trading on a regulated market
- Approved trading of their financial instruments on an MTF or an OTF
- Requested admission to trading of their financial instruments on an MTF

An Issuer shall inform the public as soon as possible of inside information which directly concerns that Issuer:

- in a manner which enables fast access and complete, correct and timely assessment of the information
- the disclosure of inside information to the public shall not be combined with the marketing of its activities
- posted and maintained on the website for a period of at least 5 years

On an Issuer’s own responsibility, disclosure may be **delayed** provided:

- (1) immediate disclosure is likely to prejudice the Issuer’s legitimate interests
- (2) delay of disclosure is not likely to mislead the public
- (3) the Issuer is able to ensure the confidentiality of that information

+ the MFSA is informed and a written explanation of how the conditions above were met is provided immediately after public disclosure

Insider Lists

Article 18

- Of persons who have access to inside information:
 - working under an employment contract
 - performing tasks through which they have access to inside information, such as advisers and accountants
- To be promptly updated (with the date and time) where:
 - there is a change in the reason for inclusion
 - a new person has access
 - a person ceases to have access
- To be provided to the competent authority upon request
- To ensure that all persons on the list:
 - acknowledge in writing the legal and regulatory duties entailed
 - is aware of the sanctions applicable to insider dealing and unlawful disclosure
- To be retained for at least 5 years after it is drawn up/updated

Issuer remains fully responsible where another person acting on behalf/on account assumes task of drawing up/updating the list

Person Discharging Managerial Responsibilities (PDMR)

Article 3

Person within an Issuer who is:

- (a) A member of the administrative, management or supervisory body of that entity, or
- (a) A senior executive who is not a member of the above bodies but who has:
 - Regular access to inside information relating that entity, and
 - Power to make managerial decisions affecting the future developments and business prospects of the entity

Persons Closely Associated

Article 3

- (a) Spouse or partner considered to be equivalent to a spouse
- (b) Dependent child
- (c) Relative who has shared the same household for at least one year on the date of the transaction
- (d) Legal person, trust or partnership, the managerial responsibilities of which are discharged by a person discharging managerial responsibilities or by a person referred to above:
 - controlled by such a person
 - set up for the benefit of such a person
 - economic interests of which are substantially equivalent to those of such a person

Managers' Transactions

Article 19

PDMRs and PCAs

For every transaction conducted on their own account relating to shares or debt instruments or other financial instruments linked thereto once a total amount of €5,000 has been reached within a calendar year.

Notify no later than **3** business days after the transaction

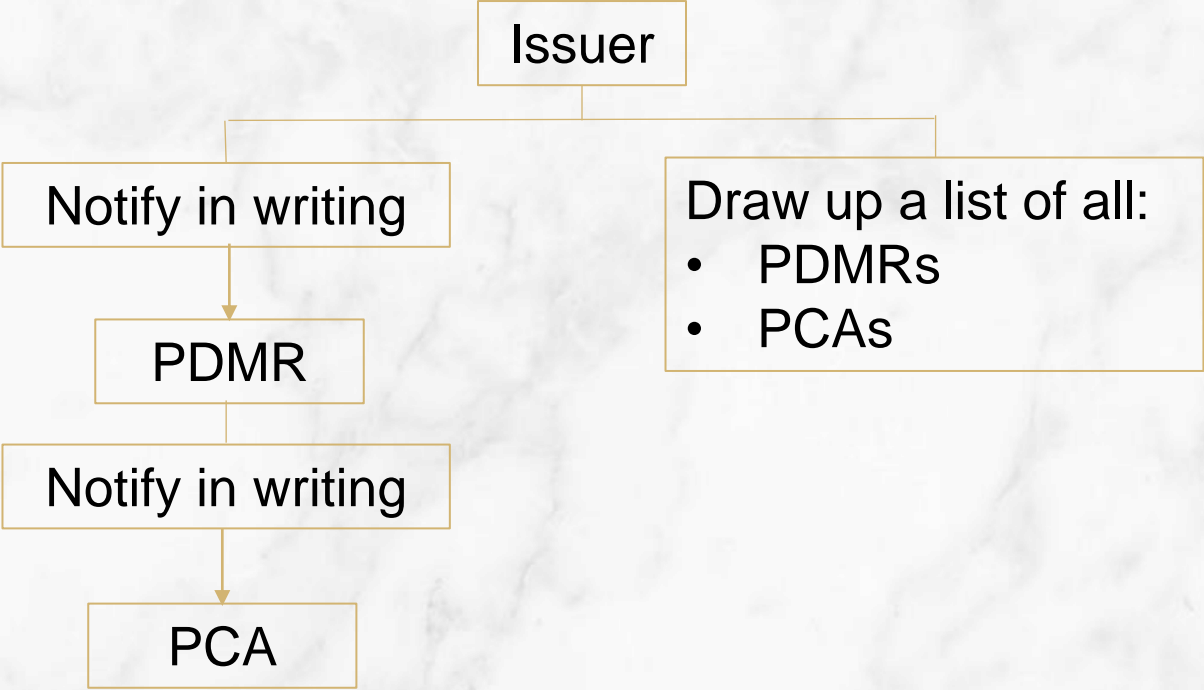
Issuer

MFSA

Ensure that the notified information is made public no later than **3** business days after the transaction in a manner which enables fast access to this information on a non-discriminatory basis

Managers' Transactions

Article 19



Managers' Transactions

Article 19

PDMRs within an Issuer shall not conduct any transactions on their own account/for the account of a third party relating to the shares/debt instruments of the Issuer or to other financial instruments linked to them during a **closed period of 30 calendar days before the announcement of an interim financial report or a year-end report** which the Issuer is obliged to make public.

An Issuer may allow either:

- On a case-by-case basis due to the existence of exceptional circumstances, such as severe financial difficulty, which require the immediate sale of shares or
- Due to the characteristics of the trading involved for transactions made under, or related to, an employee share or saving scheme, qualification or entitlement of shares, or transactions where the beneficial interest in the relevant security does not change

THANK YOU