

Guidance note

# Market Abuse Regulation (MAR)

## Dealing code and policy document

### Contents

- 1 Introduction
- 2 Specimen Group-Wide Dealing Policy
- 3 Specimen Dealing Code
- 4 Specimen Dealing Procedures Manual



# 1. Introduction

## Introduction

The Financial Conduct Authority (FCA) announced in April 2016 in its Policy Statement 16/13<sup>1</sup> that, following the implementation of the Market Abuse Regulation (MAR) on 3 July 2016, Annex 1 of Listing Rule 9, known as the 'Model Code' would be withdrawn as it is not compatible with MAR. According to the Policy Statement, feedback received by the FCA generally agreed that the Model Code should be withdrawn, but was mixed on the question of whether, and if so, how it should be replaced. The FCA concludes, 'We note the suggestion of an industry-led development of codes or best practice in this area and we would support such a development.'

A number of organisations were working on the development of codes and guidance for their clients and/or members. ICSA: The Governance Institute, GC100, the Quoted Companies Alliance and other market participants agreed that it would be of great benefit for listed and quoted companies to be able to turn to an equivalent version of the FCA's Model Code with the introduction of a single, industry-led dealing code rather than a variety of, no doubt broadly similar, codes which would potentially create confusion in the market. The code included in the suite of documents being published jointly today is intended to meet this need.

This guidance note is structured as follows:

- 1 This general introduction
- 2 A 'specimen' group-wide dealing policy (page 5). Some companies may wish to issue this to all employees as an introduction to the concept of market abuse.

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1 <https://www.fca.org.uk/static/fca/documents/policy-statements/ps16-13.pdf>

If you have any feedback on the content of these resources, or additional questions that you'd like to discuss, please contact the ICSA information centre: **020 7612 7035** | [informationcentre@icsa.org.uk](mailto:informationcentre@icsa.org.uk)

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# Introduction

- 3 A 'specimen' dealing code (page 7). The assumption is that companies will probably wish to issue this to PDMRs and those other individuals whom they wish to be covered by the company's process.
- 4 A 'specimen' dealing procedures manual (page 21) for the use of the company secretary or whoever else in the company is responsible for the implementation and management of the systems and procedures for the clearance of dealing by PDMRs and other individuals to whom dealing restrictions apply.

It is important to be clear that each company is responsible for its own compliance with MAR obligations and/or AIM requirements and for the systems and procedures that it puts in place related to dealings in the company's securities. Companies should amend this 'specimen' dealing code and dealing procedures manual to reflect their own individual circumstances and requirements. These documents also contain optional provisions which some companies may choose to adopt, or to exclude, from their own dealing code and procedures. These optional provisions are marked with footnotes, but companies should consider taking advice when preparing their bespoke dealing code and dealing procedures manual.

The specimen code and manual are based on the assumption that the company is incorporated in the UK with financial instruments admitted to trading on the Main Market of the London Stock Exchange or quoted on AIM. The dealing code and manual are intended to be used together. Companies which are incorporated in another jurisdiction or which also have financial instruments issued or quoted on other trading venues may be subject to additional requirements which are not addressed in this drafting. It also does not address the additional requirements which apply to 'emission allowance market participants' under the Market Abuse Regulation.

The specimen dealing code, the group-wide dealing policy and the specimen manual are being submitted to the FCA and London Stock Exchange for their review and comment, and will be revised should any be received.

# Introduction

As mentioned above, a number of organisations have worked together on this guidance, many of them putting in a very considerable amount of effort. We are very grateful to Nilufer von Bismarck, Nick Pacheco and the team at Slaughter and May who led the drafting of this document and Stephanie Maguire, Julian Long and the team at Freshfields Bruckhaus Deringer LLP who did the drafting for GC100. We are grateful also to the following for their contributions to this joint industry guidance:

- The Association of Investment Companies
- Charles Russell Speechlys LLP
- CMS Cameron McKenna LLP
- The Company Law Committee of the City of London Law Society
- Members of GC100
- Members of ICSA: The Governance Institute
- The Quoted Companies Alliance
- Pinsent Masons LLP
- Practical Law, Thomson Reuters
- PWC Legal LLP
- The Share Plan Lawyers working party
- Tapestry Partners LLP

## 2. Specimen Group-Wide Dealing Policy

### [•] PLC Group-Wide Dealing Policy

Adopted on [date]

This policy applies to all directors and employees of [• PLC] (the **Company**) and its subsidiaries. It has been designed to ensure that you do not misuse, or place yourself under suspicion of misusing, information about the **Group** which you have and which is not public.

- 1 You must not **deal** in any **securities** of the **Group** if you are in possession of **inside information** about the **Group**. You must also not recommend or encourage someone else to **deal** in the **Group's securities** at that time – even if you will not profit from such **dealing**.
- 2 You must not disclose any confidential information about the **Group** (including any **inside information**) except where you are required to do so as part of your employment or duties. This means that you should not share the **Group's** confidential information with family, friends or business acquaintances.
- 3 You may, from time to time, be given access to **inside information** about another group of companies (for example, one of the **Group's** customers or suppliers). You must not **deal** in the **securities** of that group of companies at those times.
- 4 The Group also operates a Dealing Code which applies to the **Company's** directors and to employees who are able to access restricted information about the **Group** (for example, employees who are involved in the preparation of the **Group's** financial reports and those working on other sensitive matters). You will be told if you are required to comply with the Dealing Code. Directors and employees who are required to comply with the Dealing Code must also comply with this policy.
- 5 Failure to comply with this policy may result in internal disciplinary action. It may also mean that you have committed a civil and/or criminal offence.
- 6 If you have any questions about this policy, or if you are not sure whether you can **deal** in **securities** at any particular time, please contact [the Company Secretary].

# Specimen Group-Wide Dealing Policy

## Glossary

For the purposes of this policy:

- **deal** and **dealing** covers any type of transaction in a company's **securities**, including purchases, sales, the exercise of options and using **securities** as collateral for a loan
- the **Group** means the **Company** and its subsidiaries
- **inside information** is information about a company or its **securities** which is not publicly available, which is likely to have a non-trivial effect on the price of such **securities** and which an investor would be likely to use as part of the basis of his or her investment decision
- **securities** are any publicly traded or quoted shares or debt instruments, and any linked derivatives or financial instruments. This would include shares, depositary receipts, options and bonds

## 3. Specimen Dealing Code

### [• PLC] Dealing Code

Adopted on [date]

#### Introduction

The purpose of this code is to ensure that the directors of [• PLC] (the '**Company**'), and certain employees of the Company and its subsidiaries, do not abuse, and do not place themselves under suspicion of abusing, Inside Information and comply with their obligations under the Market Abuse Regulation.

Part A of this code contains the Dealing clearance procedures which must be observed by the Company's PDMRs and those employees who have been told that the clearance procedures apply to them. This means that there will be certain times when such persons cannot Deal in Company Securities.

Part B sets out certain additional obligations which only apply to PDMRs.

Failure by any person who is subject to this code to observe and comply with its requirements may result in disciplinary action. Depending on the circumstances, such non-compliance may also constitute a civil and/or criminal offence.

Schedule 1 sets out the meaning of capitalised words used in this code.

# Specimen Dealing Code

## Part A – Clearance procedures

### 1. Clearance to Deal

- 1.1 You must not Deal for yourself or for anyone else, directly or indirectly, in Company Securities without obtaining clearance from the Company in advance.
- 1.2 Applications for clearance to Deal must be made in writing and submitted to [the Company Secretary] [using the form set out in Schedule 2]<sup>1</sup>.
- 1.3 You must not submit an application for clearance to Deal if you are in possession of Inside Information. If you become aware that you are or may be in possession of Inside Information after you submit an application, you must inform [the Company Secretary] as soon as possible and you must refrain from Dealing (even if you have been given clearance).
- 1.4 You will receive a written response to your application, normally within [five business days]. The Company will not normally give you reasons if you are refused permission to Deal. You must keep any refusal confidential and not discuss it with any other person.
- 1.5 If you are given clearance, you must Deal as soon as possible and in any event within [two business days]<sup>2</sup> of receiving clearance.
- 1.6 Clearance to Deal may be given subject to conditions. Where this is the case, you must observe those conditions when Dealing.
- 1.7 You must not enter into, amend or cancel a Trading Plan or an Investment Programme under which Company Securities may be purchased or sold unless clearance has been given to do so.

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1 Note to user: The Company can choose a different mechanism for the submission of clearance applications. The confirmations in Schedule 2 should be included.

2 Note to user: The Company can set its own deadline, but two business days is a common limit.



# Specimen Dealing Code

- 1.8 Different clearance procedures will apply where Dealing is being carried out by the Company in relation to an employee share plan (e.g. if the Company is making an option grant or share award to you, or shares are receivable on vesting under a long-term incentive plan). You will be notified separately of any arrangements for clearance if this applies to you.
- 1.9 If you act as the trustee of a trust, you should speak to [the Company Secretary] about your obligations in respect of any Dealing in Company Securities carried out by the trustee(s) of that trust.
- 1.10 You should seek further guidance from [the Company Secretary] before transacting in:
- (A) units or shares in a collective investment undertaking (e.g. a UCITS or an Alternative Investment Fund) which holds, or might hold, Company Securities; or
  - (B) financial instruments which provide exposure to a portfolio of assets which has, or may have, an exposure to Company Securities.

This is the case even if you do not intend to transact in Company Securities by making the relevant investment.

## 2. Further guidance

**If you are uncertain as to whether or not a particular transaction requires clearance, you must obtain guidance from [the Company Secretary] before carrying out that transaction.**

# Specimen Dealing Code

## Part B – Additional provisions for PDMRs<sup>3</sup>

### 3. Circumstances for refusal

You will not ordinarily be given clearance to Deal in Company Securities during any period when there exists any matter which constitutes Inside Information or during a Closed Period.

### 4. Notification of transactions<sup>4</sup>

4.1 You must notify the Company and the FCA in writing of every Notifiable Transaction in Company Securities conducted for your account as follows:

(A) Notifications to the Company must be made [using the template in Schedule 3]<sup>5</sup> and sent to [the Company Secretary] as soon as practicable and in any event within [one business day] of the transaction date. You should ensure that your investment managers (whether discretionary or not) notify you of any Notifiable Transactions conducted on your behalf promptly so as to allow you to notify the Company within this time frame.

(B) Notifications to the FCA must be made within three business days of the transaction date. A copy of the notification form is available on the FCA's website. If you would like, [the Company Secretary] can assist you with this notification, provided that you ask him or her to do so within [one business day] of the transaction date.

4.2 If you are uncertain as to whether or not a particular transaction is a Notifiable Transaction, you must obtain guidance from [the Company Secretary].

3 Note to user: As this Part B only applies to PDMRs, companies may prefer to delete it (together with Schedule 3) from this code and address the relevant points in another document which is provided to PDMRs only. If Part B is deleted, the definitions of 'Closed Period', 'FCA', 'Notifiable Transaction' and 'PCA' should be deleted from Schedule 1 and the Introduction should be amended accordingly. Consequential amendments will also need to be made to the dealing procedures manual.

4 Note to user: The Market Abuse Regulation requires transactions to be notified once an annual aggregate threshold of €5,000 has been exceeded. The FCA has stated that it will allow all transactions to be notified regardless of whether or not this annual threshold has been reached. This paragraph assumes that the Company will adopt this approach and require all transactions to be notified.

5 Note to user: The Company can choose a different mechanism for the receipt of notifications.

# Specimen Dealing Code

## 5. PCAs and investment managers

- 5.1 You must provide the Company with a list of your PCAs and notify the Company of any changes that need to be made to that list.
- 5.2 [You should ask your PCAs not to Deal (whether directly or through an investment manager) in Company Securities during Closed Periods and not to deal on considerations of a short-term nature. A sale of Company Securities which were acquired less than a year previously will be considered to be a Dealing of a short-term nature.]<sup>6</sup>
- 5.3 Your PCAs are also required to notify the Company and the FCA in writing, within the time frames given in paragraph 4.1, of every Notifiable Transaction conducted for their account. You should inform your PCAs in writing of this requirement and keep a copy; [the Company Secretary] will provide you with a letter that you can use to do this. If your PCAs would like, [the Company Secretary] can assist them with the notification to the FCA, provided that your PCA asks [the Company Secretary] to do so within [one business day] of the transaction date. A copy of the form for notifying the FCA is available on the FCA's website.
- 5.4 You should ask your investment managers (whether or not discretionary) not to Deal in Company Securities on your behalf during Closed Periods.

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<sup>6</sup> Note to user: This paragraph has been adapted from similar provisions of the Model Code. This provision will no longer be required from 3 July 2016, and companies may choose to exclude it from their dealing codes.

# Specimen Dealing Code

## Schedule 1 Defined terms

‘**Closed Period**’ means any of the following:

- (A) the period from the end of the relevant financial year up to the release of the preliminary announcement of the Company’s annual results (or, where no such announcement is released, up to the publication of the Company’s annual financial report) or, if longer, the period of 30 calendar days before such release (or publication);<sup>7 8</sup>
- (B) the period from the end of the relevant financial period up to the release of the Company’s half-yearly financial report or, if longer, the period of 30 calendar days before such release; and
- (C) [the period of 30 calendar days before the release of each of the Company’s first quarter report and third quarter report.]<sup>9</sup>

‘**Company Securities**’ means any publicly traded or quoted shares or debt instruments of the Company (or of any of the Company’s subsidiaries or subsidiary undertakings) or derivatives or other financial instruments linked to any of them, including phantom options.

‘**Dealing**’ (together with corresponding terms such as ‘**Deal**’ and ‘**Deals**’) means any type of transaction in Company Securities, including purchases, sales, the exercise of options, the receipt of shares under share plans, using Company Securities as security for a loan or other obligation and entering into, amending or terminating any agreement in relation to Company Securities (e.g. a Trading Plan).

‘**FCA**’ means the UK Financial Conduct Authority.

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7 **Note to user:** The FCA has stated that, pending clarification from the European Commission and European Securities and Markets Authority (ESMA), it will continue to take the view that where an issuer announces preliminary results, the closed period, when dealing is prohibited, is immediately before the preliminary results are announced. This applies only where the preliminary announcement contains all inside information expected to be included in the year-end report.

8 **Note to user:** Alternative formulations for this paragraph (A) could be adopted, but the period must be at least 30 calendar days to satisfy the requirements of the Market Abuse Regulation.

9 **Note to user:** (i) If the Company does not publish quarterly reports or interim management statements (IMS), then paragraph (C) can be deleted. (ii) If the Company publishes IMS or other quarterly reports on a voluntary basis, the Company may wish to impose a closed period prior to the release of each such IMS/report, particularly if they contain sensitive information. (iii) If the Company is required to publish quarterly reports (e.g. because of a listing in another jurisdiction), then it is suggested that the Company impose a 30-day closed period before their release.

# Specimen Dealing Code

**'Inside Information'** means information which relates to the Company or any Company Securities, which is not publicly available, which is likely to have a non-trivial effect on the price of Company Securities and which an investor would be likely to use as part of the basis of his or her investment decision.

**'Investment Programme'** means a share acquisition scheme relating only to the Company's shares under which: (A) shares are purchased by a Restricted Person pursuant to a regular standing order or direct debit or by regular deduction from the person's salary or director's fees; or (B) shares are acquired by a Restricted Person by way of a standing election to re-invest dividends or other distributions received; or (C) shares are acquired as part payment of a Restricted Person's remuneration or director's fees.

**'Market Abuse Regulation'** means the EU Market Abuse Regulation (596/2014).

**'Notifiable Transaction'** means any transaction relating to Company Securities conducted for the account of a PDMR or PCA, whether the transaction was conducted by the PDMR or PCA or on his or her behalf by a third party and regardless of whether or not the PDMR or PCA had control over the transaction. This captures every transaction which changes a PDMR's or PCA's holding of Company Securities, even if the transaction does not require clearance under this code. It also includes gifts of Company Securities, the grant of options or share awards, the exercise of options or vesting of share awards and transactions carried out by investment managers or other third parties on behalf of a PDMR, including where discretion is exercised by such investment managers or third parties and including under Trading Plans or Investment Programmes.

**'PCA'** means a person closely associated with a PDMR, being:

- (A) the spouse or civil partner of a PDMR; or
- (B) a PDMR's child or stepchild under the age of 18 years who is unmarried and does not have a civil partner; or
- (C) a relative who has shared the same household as the PDMR for at least one year on the date of the relevant Dealing; or
- (D) a legal person, trust or partnership, the managerial responsibilities of which are discharged by a PDMR (or by a PCA referred to in paragraphs (A), (B), or (C) of this definition), which is directly or indirectly controlled by such a person, which is set up for the benefit of such a person or which has economic interests which are substantially equivalent to those of such a person.

# Specimen Dealing Code

**'PDMR'** means a person discharging managerial responsibilities in respect of the Company, being either:

- (A) a director of the Company; or
- (B) any other employee who has been told that he or she is a PDMR.

**'Restricted Person'** means:

- (A) a PDMR; or
- (B) any other person who has been told by the Company that the clearance procedures in Part A of this code apply to him or her.

**'Trading Plan'** means a written plan entered into by a Restricted Person and an independent third party that sets out a strategy for the acquisition and/or disposal of Company Securities by the Restricted Person, and:

- (A) specifies the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in; or
- (B) gives discretion to that independent third party to make trading decisions about the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in; or
- (C) includes a method for determining the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in.

# Specimen Dealing Code

## Schedule 2 Clearance application template

[Name of listed company] (the 'Company')

### Application for clearance to deal

If you wish to apply for clearance to deal under the Company's dealing code, please complete sections 1 and 2 of the table below and submit this form to [the Company Secretary]. By submitting this form, you will be deemed to have confirmed and agreed that:

- (i) the information included in this form is accurate and complete;
- (ii) you are not in possession of inside information relating to the Company or any Company Securities;
- (iii) if you are given clearance to deal and you still wish to deal, you will do so as soon as possible and in any event within [two business] days; and
- (iv) if you become aware that you are in possession of inside information before you deal, you will inform [the Company Secretary] and refrain from dealing.

<b>1.</b>	<b>Applicant</b>	
a)	Name	
b)	Contact details	<i>[For executive directors and other employees, please include email address and extension number.]</i> <i>[For non-executive directors, please include email address and telephone number.]</i>
<b>2.</b>	<b>Proposed dealing</b>	
a)	Description of the securities	<i>[e.g. a share, a debt instrument, a derivative or a financial instrument linked to a share or debt instrument.]</i>
b)	Number of securities	<i>[If actual number is not known, provide a maximum amount (e.g. 'up to 100 shares' or 'up to £1,000 of shares').]</i>

## Specimen Dealing Code

c)	Nature of the dealing	<i>[Description of the transaction type (e.g. acquisition; disposal; subscription; option exercise; settling a contract for difference; entry into, or amendment or cancellation of, an investment programme or trading plan).]</i>
d)	Other details	<i>[Please include all other relevant details which might reasonably assist the person considering your application for clearance (e.g. transfer will be for no consideration).]  [If you are applying for clearance to enter into, amend or cancel an investment programme or trading plan, please provide full details of the relevant programme or plan or attach a copy of its terms.]</i>



# Specimen Dealing Code

## Schedule 3 Notification template

[Name of listed company] (the 'Company')

### Transaction notification

Please send your completed form to [name] [(email address)]. If you require any assistance in completing this form, please contact [name].

1. Details of PDMR / person closely associated with them ('PCA')		
a)	Name	[Include first name(s) and last name(s).] [If the PCA is a legal person, state its full name including legal form as provided for in the register where it is incorporated, if applicable.]
b)	Position / status	[For PDMRs, state job title e.g. CEO, CFO.] [For PCAs, state that the notification concerns a PCA and the name and position of the relevant PDMR.]
c)	Initial notification / amendment	[Please indicate if this is an initial notification or an amendment to a prior notification. If this is an amendment, please explain the previous error which this amendment has corrected.]
2. Details of the transaction(s): section to be repeated for (i) each type of instrument; (ii) each type of transaction; (iii) each date; and (iv) each place where transactions have been conducted		
a)	Description of the financial instrument	[State the nature of the instrument e.g. a share, a debt instrument, a derivative or a financial instrument linked to a share or debt instrument.]
b)	Nature of the transaction	[Description of the transaction type e.g. acquisition, disposal, subscription, contract for difference, etc.] [Please indicate whether the transaction is linked to the exercise of a share option programme.] [If the transaction was conducted pursuant to an investment programme or a trading plan, please indicate that fact and provide the date on which the relevant investment programme or trading plan was entered into.]

# Specimen Dealing Code

c)	Price(s) and volume(s)	<table border="1" data-bbox="588 488 1259 663"> <thead> <tr> <th data-bbox="595 497 908 528">Price(s)</th> <th data-bbox="914 497 1252 528">Volume(s)</th> </tr> </thead> <tbody> <tr> <td data-bbox="595 533 908 568"></td> <td data-bbox="914 533 1252 568"></td> </tr> <tr> <td data-bbox="595 573 908 609"></td> <td data-bbox="914 573 1252 609"></td> </tr> <tr> <td data-bbox="595 613 908 649"></td> <td data-bbox="914 613 1252 649"></td> </tr> </tbody> </table> <p data-bbox="588 721 1350 1034"> <i>[Where more than one transaction of the same nature (purchase, disposal, etc.) of the same financial instrument are executed on the same day and at the same place of transaction, prices and volumes of these transactions should be separately identified in the table above, using as many lines as needed. Do not aggregate or net off transactions.]</i>  <i>[In each case, please specify the currency and the metric for quantity.]</i> </p>	Price(s)	Volume(s)						
Price(s)	Volume(s)									
d)	Aggregated information Aggregated volume Price	<p data-bbox="588 1061 1278 1124"> <i>[Please aggregate the volumes of multiple transactions when these transactions:</i> </p> <ul data-bbox="588 1137 1206 1312" style="list-style-type: none"> <li><i>– relate to the same financial instrument;</i></li> <li><i>– are of the same nature;</i></li> <li><i>– are executed on the same day; and</i></li> <li><i>– are executed at the same place of transaction.]</i></li> </ul> <p data-bbox="588 1326 1050 1361"> <i>[Please state the metric for quantity.]</i>  <i>[Please provide:</i> </p> <ul data-bbox="588 1420 1329 1626" style="list-style-type: none"> <li><i>– in the case of a single transaction, the price of the single transaction; and</i></li> <li><i>– in the case where the volumes of multiple transactions are aggregated, the weighted average price of the aggregated transactions.]</i></li> </ul> <p data-bbox="588 1639 922 1671"> <i>[Please state the currency.]</i> </p>								
e)	Date of the transaction	<p data-bbox="588 1688 1278 1796"> <i>[Date of the particular day of execution of the notified transaction, using the date format: YYYY-MM-DD and please specify the time zone.]</i> </p>								
f)	Place of the transaction	<p data-bbox="588 1814 1337 1953"> <i>[Please name the trading venue where the transaction was executed. If the transaction was not executed on any trading venue, please state 'outside a trading venue' in this box.]</i> </p>								

# 4. Specimen Dealing Procedures Manual

[THE COMPANY]

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## Dealing Procedures Manual

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[ ] 2016

# Specimen Dealing Procedures Manual

Contents	Page
<b>Introduction</b>	<b>21</b>
<b>Part A – General dealing requirements</b>	<b>22</b>
1. Dealings by Restricted Persons	22
2. Identifying Restricted Persons	22
3. Clearance procedure	24
4. Circumstances for refusal	25
5. Trading Plans and Investment Programmes	26
6. Acting as a trustee	27
7. Funds and portfolios of assets	27
8. Employee share plans, employee share awards and employee trusts	28
<b>Part B – Exceptions for PDMR Dealings during MAR Closed Periods</b>	<b>29</b>
9. Exceptional circumstances	29
10. [Exception for Qualification Shares]	30
11. Exception for entitlements in respect of rights issues and other offers	30
12. Exception for transfers between accounts	31
13. Other exceptions	31
<b>Schedule 1 Defined terms</b>	<b>32</b>
<b>Schedule 2 Dealing</b>	<b>36</b>
<b>Schedule 3 Pro forma notice following additions to the insider list or project list</b>	<b>38</b>
<b>Schedule 4 Pro forma notice following removal from the insider list or project list</b>	<b>39</b>
<b>Schedule 5 Guidance on employee share plans, employee share awards and employee trusts</b>	<b>40</b>

# Specimen Dealing Procedures Manual

## Introduction

This manual sets out the procedures to be followed by [• PLC] (the '**Company**') and its subsidiaries in relation to Dealings in Company Securities.

The Company has a Dealing Code which imposes restrictions on dealings in Company Securities by PDMRs and certain employees who have been told that the clearance procedures in Part A of the Dealing Code apply to them.

The purpose of this manual and the Dealing Code is to assist the Company to comply with its obligations under the Market Abuse Regulation and to ensure that the Company has the necessary systems and procedures in place to assist its PDMRs and other employees of the Company and its subsidiaries to comply with their obligations under the Market Abuse Regulation.

The Company's dealing procedures recognise different types of periods during which dealing restrictions apply: (i) those imposed by the Market Abuse Regulation; (ii) those that the Company has adopted for periods prior to announcements of the Company's financial results (which will overlap with, but may be longer than, those imposed by the Market Abuse Regulation); and (iii) those which arise due to the existence of Inside Information.

The Company may be able to be more flexible in respect of Dealings in its securities that are proposed to take place during periods that fall into the latter two categories, given that the requirements of the Market Abuse Regulation may not strictly apply to prevent the relevant transaction at those times. However, the Company should take advice before deciding whether to relax the requirements set out in this document.

Schedule 1 sets out the meaning of capitalised words used in this manual.

# Specimen Dealing Procedures Manual

## Part A – General dealing requirements

### 1. Dealings by Restricted Persons

- 1.1 A Restricted Person must not Deal in Company Securities without obtaining advance clearance from the Company. Part A of the Dealing Code sets out the Dealing clearance application procedure for Restricted Persons.
- 1.2 The definitions of 'Dealing' and 'Company Securities' (see Schedule 1 and Schedule 2) are very broad and will capture nearly all transactions in the Company's shares or debt instruments (or any linked derivatives or financial instruments, including phantom options) carried out by a Restricted Person, regardless of whether such transaction is carried out for the account of the Restricted Person or for the account of another person.

### 2. Identifying Restricted Persons

The Dealing Code applies to 'Restricted Persons', who are (A) persons discharging managerial responsibilities in respect of the Company (PDMRs) and (B) Code Employees.

#### 2.1 PDMRs

- (A) The Company's PDMRs are:
  - (i) the members of the Board; and
  - (ii) the Company's senior executives who have regular access to Inside Information and the power to make managerial decisions affecting the future developments and business prospects of the Company.
- (B) Only those senior executives who are empowered to take decisions affecting the development or prospects of the Company's business should be considered to be PDMRs. As a general rule, those whose role is limited to providing advice or recommendations to others, or to implementing decisions taken by others, will not be PDMRs.
- (C) The Company will identify any non-board member who is a PDMMR and inform him or her in writing that he or she is a PDMMR and subject to the Dealing Code.

# Specimen Dealing Procedures Manual

## 2.2 Code Employees

- (A) In addition to PDMRs, Part A of the Dealing Code applies to employees of the Company and its subsidiaries who have been told by the Company that the clearance procedures in the Dealing Code apply to them. Such employees are referred to as 'Code Employees'.
- (B) Employees who are named on the Company's insider list [(whether in the permanent insiders section or in a section for a particular matter)]<sup>1</sup> will be required to follow the clearance procedures in the Dealing Code because they are, or may be considered to be, in possession of Inside Information. When a person is added to the insider list, [the Company Secretary] will send him or her a notice [in the form set out in Schedule 3] informing him or her that the clearance procedures apply until further notice.
- (C) Employees who are named on one of the Company's project lists (e.g. because they are working on a sensitive matter or are involved in the preparation of the Company's financial reports) are, or may be considered to be, in possession of confidential information which may in due course become Inside Information. As a general rule, such employees will be required to comply with the Dealing Code's clearance procedures and [the Company Secretary] will send notices [in the form set out in Schedule 3] to them.
- (D) When a 'Code Employee' ceases to be an insider or the project on which he or she is working is completed or does not proceed, [the Company Secretary] will send a notice [in the form set out in Schedule 4] to that employee to confirm that he or she is no longer required to comply with the Dealing Code's clearance procedures.<sup>2</sup>

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<sup>1</sup> Note to user: Companies who will not maintain a permanent insiders section should replace this text with 'for a particular matter'.

<sup>2</sup> Note to user: Companies can choose to combine the content of the notices in Schedules 3 and 4 with any concurrent notifications that need to be made under the Company's insider list policies and procedures.

# Specimen Dealing Procedures Manual

## 3. Clearance procedure<sup>3</sup>

3.1 When an application to Deal in Company Securities is received by [the Company Secretary] from a Restricted Person, [the Company Secretary] will review the application to check that the Restricted Person has provided:

- (A) all of the information required by the clearance application form set out in Schedule 2 to the Dealing Code; and
- (B) any additional information which [the Company Secretary] believes the Designated Officer might require to assess the application.

If any further information is required, this will be requested by [the Company Secretary] and should be provided by the Restricted Person before the application is submitted to a Designated Officer.

3.2 As soon as practicable after a complete application and all additional information is received, [the Company Secretary] will pass the clearance application and relevant supporting information to the relevant Designated Officer for consideration.

3.3 The Designated Officer will review the clearance application and supporting information and will provide a written response to [the Company Secretary] as soon as practicable and in any event within [two business days] of receipt of the application. The Designated Officer can choose to impose conditions in respect of any clearance given.

3.4 [The Company Secretary] will communicate the Designated Officer's decision to the relevant Restricted Person in writing [without delay] and in any event within [five business days]<sup>4</sup> of the clearance application being received and all relevant information being provided. As a general rule, the reasons for refusing clearance should not be given as that could constitute an improper disclosure of Inside Information.

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<sup>3</sup> Note to user: Companies should tailor this paragraph 3 and the definition of 'Designated Officer' in Schedule 1 to match their own dealing procedures.

<sup>4</sup> Note to user: This should match paragraph 1.4 of the Dealing Code.



# Specimen Dealing Procedures Manual

3.5 For each clearance application, [the Company Secretary] will retain:

- (A) a copy of the application (including any additional information provided);
- (B) a record of the decision taken in respect of the application, including the name of the Designated Officer, the date of the decision, whether clearance was granted and any special conditions attaching to the clearance; and
- (C) a copy of the response sent to the Restricted Person.

## 4. Circumstances for refusal

4.1 Clearance for PDMRs

- (A) PDMRs will not ordinarily be given clearance to Deal in Company Securities at any time during which there is any matter which constitutes Inside Information. The Company may also consider it appropriate to withhold clearance when there is sensitive information relating to the Company (e.g. the Company is in the early stages of a significant transaction but the existence of such transaction does not yet constitute Inside Information).
- (B) The Company will not ordinarily give clearance to PDMRs to Deal in Company Securities during a MAR Closed Period, but it can give clearance on a case-by-case basis if:
  - (i) there is no matter at that time which constitutes Inside Information which would preclude a Dealing; and
  - (ii) the requirements of one of the paragraphs in Part B of this manual are satisfied.
- (C) During a Closed Period which is not a MAR Closed Period, the Company will not ordinarily give clearance to PDMRs to Deal in Company Securities. However, during such Closed Periods and provided that there is no matter at the time which constitutes Inside Information which would preclude a Dealing, the Company has greater flexibility and can consider, on a case-by-case basis, giving clearance to Deal.

# Specimen Dealing Procedures Manual

- (D) [A PDMR will not ordinarily be given clearance to Deal in any Company Securities on considerations of a short-term nature. A sale of Company Securities which were acquired less than a year previously will be considered to be Dealing of a short-term nature.]<sup>5</sup>

## 4.2 Clearance for Code Employees

A Code Employee will not ordinarily be given clearance to Deal in Company Securities when he or she is aware of any matter which constitutes Inside Information. The Company can also decide that it is appropriate to withhold clearance when a Code Employee is aware of sensitive information relating to the Company (e.g. the Company is in the early stages of a significant transaction but the existence of such transaction does not yet constitute Inside Information).

## 5. Trading Plans and Investment Programmes

- 5.1 The Company can give clearance to allow Restricted Persons to enter into, amend or cancel a Trading Plan or an Investment Programme outside a Prohibited Period (but please see paragraph 5.3).
- 5.2 After clearance has been given to enter into a Trading Plan or Investment Programme, purchases or sales of Company Securities under such a plan, and purchases of the Company's shares under such a programme, do not require clearance (although they still require notification in accordance with Part B of the Dealing Code).
- 5.3 The status of Trading Plans and Investment Programmes under the Market Abuse Regulation and, more particularly the ability of a PDMR to carry out transactions under a Trading Plan or an Investment Programme during MAR Closed Periods, remains uncertain. Until further guidance is available, it would be prudent for the Company, when considering an application from a PDMR for clearance to enter into a Trading Plan or an Investment Programme, to grant clearance on the condition that no purchases or sales of Companies Securities under the Trading Plan or Investment Programme take place during MAR Closed Periods.

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<sup>5</sup> Note to user: The provisions of this paragraph have been adapted from similar provisions of the Model Code. These provisions are not required from 3 July 2016, and companies can choose to exclude them from their dealing procedures.

# Specimen Dealing Procedures Manual

## 6. Acting as a trustee

- 6.1 Where a Restricted Person acts as a trustee, Dealing in Company Securities on behalf of the trust will not require clearance if the decision to Deal was taken by the other trustees (or by the trust's investment managers) independently of the Restricted Person.
- 6.2 The other trustees and the trust's investment managers can be assumed to have acted independently of the Restricted Person where the decision to deal was taken without consultation with, or other involvement of, the Restricted Person or was taken by a committee of which the Restricted Person was not a member.

## 7. Funds and portfolios of assets

- 7.1 The Dealing Code tells Restricted Persons to contact [the Company Secretary] before carrying out a transaction relating to a collective investment undertaking (e.g. a UCITS or an Alternative Investment Fund) or a portfolio of assets. As Company Securities could be held or dealt in by a collective investment undertaking or form part of a portfolio of assets, a transaction relating to a collective investment undertaking or a portfolio of assets could require clearance and could be a 'Notifiable Transaction' under Part B of the Dealing Code. However, the exemptions below are likely to apply in most cases.
- 7.2 A Restricted Person can be given clearance to carry out transactions in financial instruments linked to Company Securities where at the time of the transaction:
- (A) the financial instrument is a unit or share in a collective investment undertaking (e.g. a UCITS or an Alternative Investment Fund) in which the exposure to Company Securities does not exceed 20% of the assets held by that collective investment undertaking; or
  - (B) the financial instrument provides exposure to a portfolio of assets in which the exposure to the issuer's shares or debt instruments does not exceed 20% of the portfolio's assets,

and the relevant Restricted Person cannot determine or influence the investment strategy or transactions carried out by the manager of that collective investment undertaking or portfolio.

# Specimen Dealing Procedures Manual

- 7.3 Clearance can also be given for transactions in units or shares in a collective investment undertaking, or in financial instruments which provide exposure to a portfolio of assets, where the Restricted Person does not know, and could not know, whether or not Company Securities comprise more than 20% of the assets held by that collective investment undertaking or portfolio of assets, and there is no reason to believe that such 20% threshold is exceeded, provided again that the relevant manager operates with full discretion.
- 7.4 The ability of PDMRs to carry out transactions in units or shares in a collective investment undertaking, or in financial instruments which provide exposure to a portfolio of assets, (as described above) during a MAR Closed Period remains uncertain. Until further guidance is available, it would be prudent for the Company to take advice before giving clearance to a PDMR to carry out such transactions during a MAR Closed Period.
- 7.5 Transactions subject to the exemptions from clearance described above are also not 'Notifiable Transactions' under Part B of the Dealing Code.

## **8. Employee share plans, employee share awards and employee trusts**

Schedule 5 contains guidance which may assist the Company in determining when Dealings relating to employee share plans, employee share awards and employee trusts can be permitted.

# Specimen Dealing Procedures Manual

## Part B – Exceptions for PDMR Dealings during MAR Closed Periods

### 9. Exceptional circumstances

- 9.1 A PDMR can be given clearance to sell (but not to purchase) the Company's shares (but not other Company Securities) during a MAR Closed Period if he or she is in severe financial difficulty, or there are other exceptional circumstances, which require the immediate sale of shares. Clearance may only be granted in respect of such number of shares as the PDMR needs to sell to obtain the required financial resources.
- 9.2 Any request to Deal by reason of exceptional circumstances must be accompanied by a written statement that describes the exceptional character of the circumstances and explains the transaction envisaged, why that transaction could not be executed at a time other than during the MAR Closed Period and why the sale of shares is the only reasonable alternative to obtain the necessary financing. If such a written statement is not included with the PDMR's clearance application, then [the Company Secretary] should request one from the PDMR before the decision to grant clearance is taken.
- 9.3 Circumstances are 'exceptional' only if they are extremely urgent, unforeseen and compelling and where their cause is external to the relevant PDMR and he or she has no control over them. When considering whether the circumstances are exceptional, the Designated Officer must take into account (among other things) the extent to which the PDMR:
- (A) is facing a legally enforceable commitment or claim, such as a court order; and
  - (B) could not reasonably satisfy a financial commitment (which was entered into before the start of the MAR Closed Period) to a third party (including a tax authority) otherwise than by selling the relevant shares immediately.
- 9.4 Given the stringent requirements described above, clearance to Deal under this exception is unlikely to be granted except in rare cases.

# Specimen Dealing Procedures Manual

## 10. [Exception for Qualification Shares]

[The purchase of Qualification Shares by a PDMR can be permitted where, under the Company's Constitution, the final date for acquiring such Qualification Shares falls during a MAR Closed Period, provided that the PDMR explains the reasons for the purchase not taking place at another time and the Designated Officer is satisfied with that explanation.]<sup>6</sup>

## 11. Exception for entitlements in respect of rights issues and other offers

11.1 The following Dealings by a PDMR can be permitted during a MAR Closed Period:

- (A) an undertaking or election to take up entitlements under a rights issue or other offer (including an offer for Company Securities in lieu of a cash dividend);
- (B) the take up of entitlements under a rights issue or other offer; and
- (C) allowing entitlements to lapse under a rights issue or other offer,

provided that the PDMR explains the reasons for the Dealing not taking place at another time and that the Designated Officer is satisfied with that explanation.

11.2 The status of Dealings by PDMRs in respect of rights issues and other offers during MAR Closed Periods remains uncertain. Until further guidance is available, it would be prudent for the Company to take advice before clearing any such Dealing.

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<sup>6</sup> Note to user: If the Company does not have a qualification shares requirement, then this paragraph 10 and the definitions of 'Qualification Shares' and 'Company's Constitution' in Schedule 1 can be deleted.

# Specimen Dealing Procedures Manual

## 12. Exception for transfers between accounts

- 12.1 A PDMR can be permitted to transfer Company Securities between two accounts of that PDMR during a MAR Closed Period, provided that such a transfer does not result in a change in price of the relevant Company Securities. Absent further guidance, this should be taken to mean that the transfer should not affect the price of that Company Security.
- 12.2 A transfer of Company Securities into the relevant PDMR's personal pension scheme and a transfer to a family trust or an account held jointly with another person would not be viewed as a transfer between two accounts of a PDMR and would therefore not qualify for this exception.

## 13. Other exceptions

Article 19(12)(b) of the Market Abuse Regulation may also allow the Company to give clearance to PDMRs during a MAR Closed Period for other Dealings relating to (A) an employee share or saving scheme, (B) qualifications or entitlements to shares or (C) transactions where the beneficial interest in the relevant Company Security does not change. The Company should seek advice before clearing any Dealing under this paragraph.

# Specimen Dealing Procedures Manual

## Schedule 1 Defined terms

**'Closed Period'** means any of the following:

- (A) the period from the end of the relevant financial year up to the release of the preliminary announcement of the Company's annual results (or, where no such announcement is released, up to the publication of the Company's annual financial report) or, if longer, the period of 30 calendar days before such release (or publication);<sup>7 8</sup>
- (B) the period from the end of the relevant financial period up to the release of the Company's half-yearly financial report or, if longer, the period of 30 calendar days before such release; and
- (C) [the period of 30 calendar days before the release of each of the Company's first quarter report and third quarter report.]<sup>9</sup>

**'Code Employee'** means any employee (not being a PDMR) who has been told by the Company that the clearance procedures in Part A of the Dealing Code apply to him or her.

**'Company Securities'** means any publicly traded or quoted shares or debt instruments of the Company (or of any of the Company's subsidiaries or subsidiary undertakings) or derivatives or other financial instruments linked to any of them, including phantom options.

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<sup>7</sup> **Note to user:** The FCA has stated that, pending clarification from the European Commission and European Securities and Markets Authority (ESMA), it will continue to take the view that where an issuer announces preliminary results, the closed period, when dealing is prohibited, is immediately before the preliminary results are announced. This applies only where the preliminary announcement contains all inside information expected to be included in the year-end report.

<sup>8</sup> **Note to user:** Alternative formulations for this paragraph (A) could be adopted, but the period must be at least 30 calendar days to satisfy the requirements of the Market Abuse Regulation.

<sup>9</sup> **Note to user:** (i) If the Company does not publish quarterly reports or interim management statements (IMS), then paragraph (C) can be deleted. (ii) If the Company publishes IMS or other quarterly reports on a voluntary basis, the Company may wish to impose a closed period prior to the release of each such IMS/report, particularly if they contain sensitive information. (iii) If the Company is required to publish quarterly reports (e.g. because of a listing in another jurisdiction), then it is suggested that the Company impose a 30-day closed period before their release.



# Specimen Dealing Procedures Manual

[‘**Company’s Constitution**’ means the Company’s articles of association or equivalent constitutional document.]<sup>10</sup>

‘**Dealing**’ (together with corresponding terms such as ‘**Deal**’ and ‘**Deals**’) means any type of transaction in Company Securities, including purchases, sales, the exercise of options, the receipt of shares under share plans, using Company Securities as security for a loan or other obligation and entering into, amending or terminating any agreement in relation to Company Securities (e.g. a Trading Plan). Schedule 2 contains a non-exhaustive list of transactions which are Dealings.

‘**Dealing Code**’ means the Company’s dealing code, which regulates Dealings in Company Securities by Restricted Persons.

‘**Designated Officer**’ means:

- (A) if the Restricted Person seeking clearance to Deal is a director (other than the chairman or the chief executive), the chairman or any other director designated by the Board for that purpose; or
- (B) if the Restricted Person seeking clearance to Deal is the chairman, the chief executive or, if the chief executive is not present, the senior independent director or a committee of the Board or other officer nominated for that purpose by the chief executive. If the roles of chairman and chief executive are combined, the Designated Officer is the senior independent director; or
- (C) if the Restricted Person seeking clearance to Deal is the chief executive, the chairman or, if the chairman is not present, the senior independent director or a committee of the Board or other officer nominated for that purpose by the chairman. If the roles of chairman and chief executive are combined, the Designated Officer is the senior independent director; or
- (D) if the Restricted Person seeking clearance to Deal is not a director, any director or officer of the Company designated by the Board for that purpose.<sup>11</sup>

<sup>10</sup> Note to user: See footnote 6.

<sup>11</sup> Note to user: See footnote 3. This formulation has been adapted from the provisions of the Model Code. Please note that a ‘Designated Officer’ need not be a director.

Note to AIM companies: In accordance with the Guidance Notes to AIM rule 21, AIM companies may prefer to adopt this alternative formulation: ‘**Designated Officer**’ means [•]. Where [•] is seeking clearance to Deal or is otherwise not independent in respect of a particular clearance application or is unavailable, the Designated Officer is [•].’ The Guidance Notes stipulate that the Designated Officer(s) should be individuals of sufficient seniority for the purposes of granting clearance requests.

# Specimen Dealing Procedures Manual

'**FCA**' means the UK Financial Conduct Authority.

'**Inside Information**' means information which relates to the Company or any Company Securities, which is not publicly available, which is likely to have a non-trivial effect on the price of Company Securities and which an investor would be likely to use as part of the basis of his or her investment decision.

'**Investment Programme**' means a share acquisition scheme relating only to the Company's shares under which: (A) shares are purchased by a Restricted Person pursuant to a regular standing order or direct debit or by regular deduction from the person's salary or director's fees; or (B) shares are acquired by a Restricted Person by way of a standing election to re-invest dividends or other distributions received; or (C) shares are acquired as part payment of a Restricted Person's remuneration or director's fees.

'**MAR Closed Period**' means:

- (A) the period of 30 calendar days before the release of a preliminary announcement of the Company's annual results or, where no such announcement is released, the period of 30 calendar days before the publication of the Company's annual financial report;
- (B) the period of 30 calendar days before the publication of the Company's half-yearly financial report; and
- (C) [the period of 30 calendar days before the publication of each of the Company's first quarter report and third quarter report].<sup>12</sup>

'**Market Abuse Regulation**' means the EU Market Abuse Regulation (596/2014).

'**PDMR**' means a person discharging managerial responsibilities in respect of the Company, being either:

- (A) a director of the Company; or
- (B) a senior executive of the Company who is not a director but who has regular access to Inside Information and the power to make managerial decisions affecting the future developments and business prospects of the Company.

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<sup>12</sup> Note to user: See footnotes 7 and 9.

# Specimen Dealing Procedures Manual

**'Prohibited Period'** means:

- (A) in respect of a PDMR, any Closed Period and/or any period when there exists any matter that constitutes Inside Information; and
- (B) in respect of a Code Employee, any period during which the clearance procedures in Part A of the Dealing Code continue to apply to him or her.

**'Qualification Shares'** means the [number] shares which the Company's Constitution requires the relevant Restricted Person to hold.]<sup>13</sup>

**'Restricted Person'** means:

- (A) a PDMR; or
- (B) a Code Employee.

**'Trading Plan'** means a written plan entered into by a Restricted Person and an independent third party that sets out a strategy for the acquisition and/or disposal of Company Securities by the Restricted Person, and:

- (A) specifies the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in; or
- (B) gives discretion to that independent third party to make trading decisions about the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in; or
- (C) includes a method for determining the amount of Company Securities to be dealt in and the price at which and the date on which the Company Securities are to be dealt in.

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<sup>13</sup> Note to user: See footnote 6.

# Specimen Dealing Procedures Manual

## Schedule 2 Dealing

The following is a non-exhaustive list of transactions which are Dealings for the purposes of this manual and the Dealing Code:

- (A) the pledging or lending of Company Securities (although a pledge, or a similar security interest, of Company Securities in connection with the depositing of Company Securities in a custody account is not 'Dealing', unless and until such pledge or other security interest is designated to secure a specific credit facility);
- (B) transactions in Company Securities carried out by persons professionally arranging or executing transactions or by another person on behalf of a Restricted Person, including where discretion is exercised;
- (C) transactions in Company Securities made under a life insurance policy, where (i) the policyholder is a Restricted Person; (ii) the investment risk is borne by the policyholder; and (iii) the policyholder has the power or discretion to make investment decisions regarding specific instruments in that life insurance policy or to execute transactions regarding specific instruments for that life insurance policy;
- (D) an acquisition, disposal, short sale, subscription or exchange of Company Securities;
- (E) the acceptance or exercise of an option over Company Securities, including of a share option granted as part of a remuneration package, and the disposal of shares stemming from the exercise of a share option;
- (F) entering into or exercise of equity swaps related to Company Securities;
- (G) transactions in or related to derivatives over Company Securities, including cash-settled transactions and phantom options;
- (H) entering into a contract for difference on Company Securities;
- (I) the acquisition, disposal or exercise of rights in relation to Company Securities, including put and call options and warrants;
- (J) subscription to a share capital increase or debt instrument issuance of the Company;

# Specimen Dealing Procedures Manual

- (K) transactions in derivatives and financial instruments linked to a debt instrument of the Company including credit default swaps;
- (L) conditional transactions relating to Company Securities. The completion of such transactions upon fulfilment of the conditions (provided no further action is required by the Restricted Person) does not constitute Dealing and therefore does not require clearance, but such completion would be a 'Notifiable Transaction' under Part B of the Dealing Code;
- (M) the automatic or non-automatic conversion of a Company Security into another Company Security, including the exchange of convertible bonds to shares;\*
- (N) gifts and donations of Company Securities made or received, or an inheritance of Company Securities received;\*
- (O) transactions executed in index-related products, baskets and derivatives transacting in Company Securities;
- (P) transactions executed in shares or units of investment funds which transact in Company Securities;
- (Q) transactions in Company Securities executed by a manager of an investment fund in which a Restricted Person has invested;\*
- (R) transactions in Company Securities executed by a third party under an individual portfolio or asset management mandate on behalf or for the benefit of a Restricted Person; and
- (S) borrowing or lending of Company Securities.

*\* Note: Certain transactions which fall within these paragraphs may not constitute 'Dealing' as they are passive transactions over which the relevant Restricted Person has no control (e.g. the receipt of a gift by a Restricted Person). Until further guidance is received, it would be prudent for the Company to take advice when deciding whether or not a particular passive transaction would constitute 'Dealing' for the purposes of this manual and the Dealing Code. Even if such transaction does not constitute 'Dealing', it would still be a 'Notifiable Transaction' under Part B of the Dealing Code.*

# Specimen Dealing Procedures Manual

## Schedule 3 Pro forma notice following additions to the insider list or project list

Dear *[name]*,

### **Dealing in the securities of *[name of Company]* (the 'Company')**

You were recently added to [the section of the Company's insider list relating to *[name or description of project/matter]*] OR [the Company's project list for *[name or description of project/matter]*].

During the period while you are an insider or on a project list, you will be subject to the dealing procedures and restrictions set out in Part A of the Company's dealing code. A copy of the code is attached.

**This means that you must not transact in the Company's securities without first seeking and receiving clearance to do so.** You may apply for clearance using the form set out in Schedule 2 to the dealing code.

I will write to you again in due course to let you know when you are no longer subject to the dealing code.

If you have any questions in relation to the above, please contact me or *[name]* (*[email address]*; *[telephone number]*).

Yours sincerely,

*[Name]*

# Specimen Dealing Procedures Manual

## Schedule 4 Pro forma notice following removal from the insider list or project list

Dear *[name]*,

### **Dealing in the securities of *[name of Company]* (the 'Company')**

Following the *[announcement/termination]* of *[name or description of project/matter]*, you are no longer an insider or on any active project list. As such, you are no longer subject to the dealing procedures and restrictions set out in Part A of the Company's dealing code.

*[For terminated matters: Details of *[name or description of project/matter]* remain confidential.]*

If you have any questions in relation to the above, please contact me or *[name]* (*[email address]*; *[telephone number]*).

Yours sincerely,

*[Name]*

# Specimen Dealing Procedures Manual

## Schedule 5 Guidance on employee share plans, employee share awards and employee trusts<sup>14</sup>

### (A) Awards, etc

- (i) General rule: No discretionary awards may be made to any person (whether or not a Restricted Person) in a MAR Closed Period.
- (ii) Invitations under all-employee plans (e.g. Sharesave) should not be launched in a MAR Closed Period.
- (iii) Awards of shares under pre-planned regular employee share or savings arrangements (e.g. awards of partnership shares under a share incentive plan) put in place before the MAR Closed Period can be made provided no changes are made by a PDMR to their savings level during that MAR Closed Period.
- (iv) Awards or invitations under either discretionary or all-employee plans may be possible during a period when there is Inside Information if failure to make the award or invitation would indicate that Inside Information exists. Advice should be taken if awards or invitations are being considered in this situation.

### (B) Exercise of options and vesting of awards under long-term incentive plans

- (i) General rule: Clearance cannot ordinarily be given for exercises of options by a Restricted Person during a Prohibited Period. Whether clearance can be given for vesting of awards under long-term incentive plans depends largely upon the plan rules.
- (ii) As an exception to this, exercises of options can be permitted during a Prohibited Period if the relevant option would otherwise expire (e.g. at the end of a 6 month Sharesave exercise period). Stricter rules apply to a PDMR during a MAR Closed Period. The sale of the resulting shares to meet tax obligations or pay the exercise price of the options is subject to separate rules. Further details are set out in paragraph (C) below.

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<sup>14</sup> Note to user: Companies may wish to remove parts of this Schedule which do not apply to them if, for example, they do not operate all-employee arrangements or an employee trust.



# Specimen Dealing Procedures Manual

- (iii) Rules of the long-term incentive plan arrangements (which do not use options) will generally stipulate what happens if an award vests (e.g. when all performance conditions are met) in a Prohibited Period. Those rules may for example:
  - (a) provide for vesting to be delayed until after the relevant Prohibited Period ends, even if the relevant conditions are met; or
  - (b) provide a fixed right for individuals to receive shares, if the relevant conditions are met.

In case (a), subject to the drafting of the relevant rules, no issue arises because no Dealing takes place during a Prohibited Period. In case (b), vesting is generally possible for Restricted Persons (as is a sale of shares as set out in paragraph (C) below). However advice should be obtained.

## **(C) Immediate sales of shares received under employee share plans**

- (i) General rule: Even if options are permitted to be exercised or awards are permitted to vest, clearance should not ordinarily be given for the immediate sale of the resulting shares in a Prohibited Period, including where the relevant Restricted Person wishes to sell them to pay the option exercise price or meet tax obligations.
- (ii) As an exception to the above, clearance for sale on behalf of a Restricted Person can be given to pay the option exercise price or meet tax obligations in respect of options or long-term incentive plan awards:
  - (a) where that sale is required by the rules of the relevant plan (or by an irrevocable agreement entered into outside a Prohibited Period) and where neither the Company nor the participant has any discretion over the timing or number of shares to be sold. Formal clearance in advance may be required;
  - (b) in exceptional circumstances (see paragraph 9 for the limitations which apply to the use of this exception in relation to PDMRs during a MAR Closed Period); or
  - (c) where exercise has been permitted on expiry of an option (see paragraph (B)(ii)).

# Specimen Dealing Procedures Manual

## **(D) Other Dealings**

The Company can consider, on a case-by-case basis, giving clearance to PDMRs to carry out the following transactions during a Closed Period which is not a MAR Closed Period:

- (i) the transfer of Company Securities arising out of the operation of an employee share plan into a savings scheme investing in Company Securities (e.g. an ISA) for example following: (a) the exercise of any option under a Sharesave plan; or (b) the release of Company Securities from a share incentive plan;
- (ii) other than a sale of Company Securities, a transaction in connection with a Sharesave scheme or share incentive plan (or schemes on similar terms), under which participation is extended on similar terms to all or most employees of the participating companies in that scheme; and
- (iii) a transfer of Company Securities already held by means of a matched sale and purchase into a saving scheme or into a pension scheme of which that PDMR is a beneficiary;

## **(E) Employee trusts**

- (i) General rule: Recommendations should not generally be made to the trustees of employee trusts during a Prohibited Period that they acquire or dispose of Company Securities or make awards.
- (ii) Subject to the above, there is no restriction on Dealings carried out by trustees of employee trusts on behalf of employees generally during a Prohibited Period. If the trustees of an employee trust are acting as nominee for a Restricted Person then the position will need to be considered carefully.
- (iii) The trustees of an employee trust can Deal during a Prohibited Period to the extent required to satisfy pre-existing obligations.
- (iv) There is no prohibition on funding an employee trust (e.g. making gifts or loans) during a Prohibited Period, provided that this is not accompanied by a recommendation or encouragement to Deal during a Prohibited Period.

# Specimen Dealing Procedures Manual

## **(F) Clearance for Dealings under employee share plans**

In some circumstances, it may be appropriate (without any application from the Restricted Person) for bulk clearance to be granted in connection with Dealings connected with employee share plans, e.g. to permit individuals to accept invitations made by the Company to participate in an all-employee plan or in relation to the automatic vesting of awards granted under a long-term incentive plan.

**ICSA is the chartered membership and qualifying body for professionals working in governance, risk and compliance, including company secretaries.**

**We seek to develop the skills, effectiveness and profile of people working in governance roles at all levels and in all sectors through:**

- A portfolio of respected qualifications
- Authoritative publications and technical guidance
- Breakfast briefings, training courses and national conferences
- CPD and networking events
- Research and advice
- Board evaluation services
- Market-leading entity management and board portal software.

Guidance notes are prepared by the ICSA policy team to support the work of company secretaries and other governance professionals working in the corporate and not-for-profit sectors, and in NHS trusts.

Guidance notes offer authoritative advice, interpretation and sample materials for the many issues involved in the management and support of boards. As such, they are invaluable for those helping their organisations to build trust through good governance.

There are over 100 guidance notes available to ICSA members at [www.icsa.org.uk/guidance](http://www.icsa.org.uk/guidance)

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June 2016



**GC100 is the Association of General Counsel and Company Secretaries working in UK FTSE100 Companies. There are currently over 126 general counsel and company secretary members of the group, representing some 80 FTSE 100 companies. The main objective of GC100 is to provide a collective voice and make representations on the practical impact of policy, regulatory and legislative reforms that impact on FTSE 100 companies. Please note, as a matter of formality, the views expressed in this guidance note do not necessarily reflect those of each and every individual member of the GC100 or their employing companies.**

**The Quoted Companies Alliance is the independent membership organisation that champions the interests of small to mid-size quoted companies. Their individual market capitalisations tend to be below £500m. The Quoted Companies Alliance is a founder member of EuropeanIssuers, which represents over 9,000 quoted companies in fourteen European countries.**