



TRADER MEDIA EAST LIMITED
MEMORANDUM ON DIRECTORS' OBLIGATIONS
AND CORPORATE GOVERNANCE

This memorandum is an introduction to the key rules and obligations, both statutory and non-statutory, that apply to the directors of Trader Media East Limited (the "**Company**") as a Jersey-incorporated company with Global Depositary Receipts ("**GDRs**") traded on the London Stock Exchange (the "**LSE**").

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MEMORANDUM FOR DIRECTORS OF COMPANIES WITH LISTED GDRS

1. GENERAL

This memorandum summarises a director's main duties to his company and suggests some practical steps by which a director can protect himself. It is not a complete overview and it should be noted that the law changes from time to time. This memorandum speaks to the position as at 1st October 2007. Directors who are unclear about their duties in any specific case should seek advice. It should be further noted that a company's obligations are separate to those of its directors.

The duties of directors of companies incorporated under the laws of Jersey with London-listed GDRs arise under the Listing Rules, Disclosure Rules, Prospectus Rules, the Model Code, the Criminal Justice Act 1993, Financial Services and Markets Act 2000, the Combined Code on Corporate Governance (2006) and the City Code on Takeover and Mergers issued by the Panel on Takeovers and Mergers as well corresponding and applicable laws and regulations arising under Jersey law.

Ensuring that a company complies with the ongoing regulations of the Listing Rules and the Disclosure Rules is the responsibility of its directors. If a director does not comply with his duties, he may be liable to civil or criminal proceedings and may be disqualified from acting as a director. He may also be subject to a financial penalty or censure by the Financial Services Authority (the "**FSA**").

Directors' duties are owed to the company and not to individual shareholders or groups of shareholders. As a general matter, directors must consider the long-term interests of both present and future shareholders. Particularly if the company is in financial difficulties, they must also have regard to the interests of the company's creditors.

2. CONSTITUTIONAL POWERS

The directors, as a board, manage the company's business and affairs. The directors must not act outside the company's powers and must respect any limits on their powers imposed by the company's articles of association. The test is an objective one; it makes no difference if they thought they were using their powers properly. In certain circumstances the court may set aside a transaction if the directors have acted outside their powers.

It is not advisable for directors to restrict their power to exercise an independent judgement. However, if they consider in good faith that it is in the interests of the company to enter into a transaction and carry it into effect, they may do so.

3. CONFLICTS OF INTEREST

The Companies (Jersey) Law 1991 (the "**Companies Law**") requires directors to disclose any direct or indirect interest in a transaction entered into or proposed to be entered into by the company (or by a subsidiary of the company) which to a material extent conflicts or may conflict with the interests of the company. Where a director fails to notify of such an interest a court order may be obtained to set aside a transaction and require the director to account for any profit or gain.

4. INDEMNITIES, INSURANCE AND OTHER LIMITS ON LIABILITY

A company may protect a director from potential liabilities and the cost of defending proceedings brought against him in two ways.

4.1. Indemnification and funding of expenditure on defending proceedings

A company may seek to indemnify a director against any liability attaching to him in connection with the company. For most purposes, however, any provision exempting a director from or indemnifying him against any liability that would otherwise attach to him as a director is void (e.g., in the case of self dealing).

The Companies Law provides for certain exceptions, in respect of:

- certain court proceedings (generally, if they are (i) adjudged in his favour, (ii) settled or otherwise discontinued in his favour or (iii) settled in such a way that the other directors are of the opinion that the director was substantially successful in his resistance to the proceedings);
- any liability incurred to parties other than the company, if the director acted in good faith with a view to the best interests of the company;
- any liability in respect of which the director has obtained relief from the court (on the grounds that he acted honestly and ought fairly to be excused); and
- any liability against which the company normally maintains insurance for persons other than directors (e.g., motoring insurance).

An indemnity is provided to the directors of the Company in the Company's articles of association against any loss or liability incurred by each director by reason of him being an officer of the Company, but only to the extent such loss or liability was incurred as a result of him having acted or omitted to act in good faith. However, since a director may not be able to enforce an indemnity in the company's articles of association directly, it may be preferable to include appropriate wording (so far as permissible) in the director's contract of service or letter of appointment or for the company to enter into a separate deed of indemnity with the director.

4.2. Insurance

The Companies Law does not prevent a company from insuring against any liability that might attach to its directors, including those excluded above. We understand that the Company has obtained Directors and Officers Liability Insurance for the period up to and including 13 February 2008. The Company's general counsel ensures that this policy is maintained on an on-going basis. The Board, however, may in the future consider formally assigning this responsibility to the general counsel from time to time, or any other person as it deems appropriate.

5. PRACTICAL STEPS FOR DIRECTORS

What else can directors do to protect themselves ? They should:

- ensure that they receive a proper induction on joining the board, keep themselves fully informed about the Company's business and the sector in which it operates and keep their skills refreshed;
- attend board meetings whenever possible, ensure sufficient information is provided by the Company with plenty of time for review and seek clarification when necessary;
- raise points of concern with the management team;
- review agreed minutes carefully and ensure that they accurately record not only the material factors considered in making a decision but also any concerns expressed about a course of action (although extensive records of the substance of any debates in the form of what each director said are not usually necessary);
- seek direct access to independent advice where necessary to form a sensible judgement;
- ensure that adequate procedures, systems and controls are in place with appropriate benchmarking to ensure that the Listing Rules, Disclosure Rules and the "reasonable expectation" standard of required skill and care are being satisfied; and
- ensure clear documentation of and parameters for executive authority and other delegation, compliance reporting and monitoring systems to demonstrate and ensure control over and diligence in respect of the activities of the Company.
- ensure that issues that have been identified are investigated and dealt with;
- ensure that there is a reasonable basis for all public disclosures, with an appropriate record being kept of diligence undertaken to check them; and
- ensure that issues revealed by performance evaluations are properly addressed.

6. DIRECTORS' POWERS, DUTIES AND OBLIGATIONS

6.1. Types of Directors

Executive directors

Executive directors carry out executive functions in the Company, as well as their duties as board members. They are usually employees of the Company or a group operating company and, as such, have rights and duties completely separate from those arising out of their position as directors. For example, although an executive director may not be entitled to compensation if dismissed as a director, he will have rights under his service contract, as well as rights under employment protection legislation, if this dismissal also affects his employment contract (which is usually the case).

A person who becomes a director of a company will not automatically become its employee. He may do so if he takes on responsibilities in addition to those he assumes simply by being a board member. He will do so if he enters into a service contract with the company.

Non-executive directors

Non-executive directors have the same duty as executive directors to act with a view to the best interests of their company, but they are not employees of the company and normally do not have the same involvement in the company's day-to-day affairs as executive directors. They are often appointed because of their particular skills or experience.

6.2. Powers of directors

The basic rule in accordance with Jersey common law is that the directors act as a board. When they do so, the Company will be bound by their acts, provided they are within the scope of the directors' collective authority. Any limits on the board's powers are set out in the Company's articles of association.

6.3. Duties of directors

Directors' duties under Jersey law are owed to the Company of which they are a director and not to other group companies or individual shareholders or groups of shareholders. If the company is in financial difficulties, directors may also owe a duty to creditors. The duties owed by directors are set out below.

(a) Skill and care

All directors are expected to exercise a degree of skill and care. Broadly, the director must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(b) Fiduciary duties

All directors owe fiduciary duties to the company that appoints them. There are differing views on how fiduciary duties should be classified, but the following are relevant:

- loyalty;
- proper purpose;
- no fetters on discretion;
- the no-conflict and no-profit rules; and
- duty to act in accordance with the company's memorandum and articles of association.

i) Loyalty

Directors must act honestly and in good faith with a view to the best interests of the company. They therefore cannot use their powers to benefit third parties or themselves. This duty is subjective and a court will not find the directors in breach merely because it would have reached a different conclusion.

ii) Proper purpose

Directors must exercise their powers for the purpose for which they were conferred. This is a different requirement from the duty of loyalty. For example, although it may be in the company's best interests to allot shares, this power cannot be used to entrench the directors in office or to deprive an existing majority of its majority position.

iii) No fetters on discretion

At English common law, which may be applied to directors of a Jersey incorporated company by the courts in Jersey, directors must not fetter their discretion (e.g., agreeing with a third party how to exercise their discretion would stop them from exercising an independent judgement at the appropriate time). However, there is an exception where directors decide that it is in the company's best interests to enter into a contract and carry it into effect. They can undertake to exercise their powers in a particular way if it is necessary to do so to give effect to the contract.

iv) The no-conflict and no-profit rules

Directors should avoid putting themselves in a position where their personal interests or duties to a third party conflict with their duties to the company. This does not apply if the company gives an informed consent – either in its articles or by a resolution of the company in general meeting.

If an actual or potential conflict arises, to avoid the likelihood of liability the director must ensure that it is disclosed to, and approved by, the company. The articles of association will normally permit certain interests to subsist provided they are disclosed to the remaining directors.

A conflict of interest may arise where the director has no obvious personal or financial interest at stake. For example, a director who is a member of the boards of several companies may find himself in a position of conflict if the interests of two or more of those companies conflict, so that he cannot properly fulfil the duties he owes to each company. For example, he may obtain information about company A that it would be in the best interests of company B to disclose, but he still owes a duty of confidentiality to company A. Difficult questions will arise over the extent to which he can or must keep the information secret. These problems are particularly acute in the context of cross-directorships on a takeover. Sometimes, a director can be absent from sensitive board meetings to avoid such difficulties; however, a director in this position should normally obtain independent legal advice.

Similar problems may arise where a director holds a number of directorships within a group, for example of both parent and subsidiary companies. It may not always be clear how he can fulfil his duties to both companies. For example, action approved by him as a member of the parent board, and that is clearly in the best interests of that company, may not be in the best interests of a subsidiary. Again, independent advice is likely to be the best course.

Directors are generally regarded as trustees of the company's assets and, accordingly, similar rules apply to them as those applying to trustees of any property. In particular, if a director makes a profit from the use of the company's property or from an opportunity open to him only because of his directorship, that profit is deemed to belong to the company. Normally, the director will have to account for it to the company, although he may be permitted to retain it if he is allowed to by the company's articles or if it has previously been disclosed to the other directors or by notice in writing to the company secretary in accordance with the articles. It makes no difference that the company itself would never have been able to make the profit, nor that the director acted honestly and in good faith.

- v) Duty to act in accordance with the company's memorandum and articles of association

Directors must act within the powers set out in the company's memorandum and articles of association. If a director commits the company to a transaction when acting beyond the scope of these powers, the company is entitled to recover any resultant loss from him. A director should therefore familiarise himself with the relevant provisions of the company's articles (e.g.,

articles regarding the powers of the board, delegation of powers, directors' interests and payment of dividends).

6.4. **Liability for breach of fiduciary duty**

If a director acts in breach of his fiduciary or trustee-type duties and the company suffers loss as a result, that director could be personally liable to compensate the company for the loss. A director may in certain circumstances obtain protection against such liability if the relevant act is disclosed to the company's shareholders and ratified by them in general meeting. However, ratification is not possible in certain cases, or is subject to certain solvency tests being met.

7. **STATUTORY DUTIES**

Statutory provisions in regard to the duties and liabilities of directors are contained in the Companies Law; however, other statutes are relevant to directors, particularly the Bankruptcy ("Désastre, Disaster") (Jersey) Law 1990 (the "**Bankruptcy Law**").

7.1. **Companies Law**

The Companies Law imposes duties both upon the directors personally, such as the duty to prepare a company's accounts, and upon the company. In the latter case, if the directors fail to ensure that the company's obligations are discharged, penalties may be imposed on both the company and the directors.

Some of the offences for which a director may be made liable in respect of breaches of provisions in the Companies Law are set out in Appendix A. Many of these offences are of an administrative nature and are quite technical. A director is in default of a provision if he knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the provision.

Some of the offences attract a "daily default fine" in respect of second and subsequent convictions of the offence in question for each day in which the contravention of the relevant provision is continued. It should be noted that in some cases no maximum limits apply to the fines which may be imposed and terms of imprisonment can be imposed in respect of certain offences such as those relating to the circulation of prospectuses, financial assistance in connection with the acquisition of shares, contravening a disqualification order, failure to comply with statutory requirements relating to accounts and statements to auditors and unreasonably signing an incorrect solvency statement in relation to a company's summary winding up.

(a) **Winding up**

Winding up (liquidation) is an especially fraught time for directors. The Companies Law contains several provisions which result in personal liability for the director.

If, before the commencement of the winding up of a company (the relevant time) a director knows that, or is reckless as to whether, there is no reasonable prospect that the company will avoid a creditors' winding up, but the company nevertheless continues to trade (wrongful trading), the court may order that director to be personally liable for all the company's liabilities arising from the relevant time.

Any director (or other person) knowingly involved in a case where the business of a company has been carried on with the intent of defrauding creditors of the company or of any other person, or for a fraudulent purpose, may be ordered by the court to contribute to the company's assets on a creditors' winding up or where the court makes a declaration under the Bankruptcy Law.

A director who has signed a statement delivered to the registrar for the purposes of winding up a company that the company has no liabilities will be liable to make up any shortfall between the company's assets and liabilities if the court subsequently sets aside the dissolution and it transpires that the company did in fact have liabilities.

If a winding up of the company is commenced within a year of a payment out of a company's share premium account for the redemption or purchase of its own shares, in certain circumstances, the persons who were directors at the time of the payment may be liable with the person to whom the payment was made for an amount not exceeding the amount paid out of the share premium account.

(b) Enforcement

The Companies Law provides for the appointment of inspectors by the Finance and Economics Committee of the States of Jersey or the Jersey Financial Services Commission (the "**Commission**") to investigate the affairs of a company and report on them. The Committee or the Commission is primarily responsible for the cost of such an investigation. However, if as a result of such investigation the Committee or the Commission brings civil proceedings on behalf of the Company or a criminal prosecution is instituted, the person ordered to pay the costs of the civil proceedings or the person convicted in the criminal prosecution may be ordered by the Court also to reimburse the Committee up to the whole of the costs and expenses of the investigation.

The Court has discretion, on the application of the Attorney General, the Finance and Economics Committee and/or the Commission on the grounds of public interest, to disqualify a person from being a director of, or in any way, whether directly or indirectly, being concerned or taking part in the management of, a company in Jersey or taking part in the management of a body incorporated outside Jersey, if the court is satisfied that the person's conduct in relation to any body corporate makes him unfit to be concerned in the management of a company or to be concerned in the management in Jersey of a body incorporated outside Jersey. If a person contravenes such an order, he is guilty of an offence and liable to a fine and/or imprisonment. Additionally, he is

personally liable for such liabilities of the company or other body corporate as are incurred during the time he was in contravention of the order or involved in its management.

The Companies Law provides that, if in proceedings for negligence, default, breach of duty or breach of trust against an officer of a company, it appears to the Court that that officer is or may be liable in respect thereof but that he acted honestly and that having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused from the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it thinks fit.

7.2. **The Bankruptcy Law**

A debtor under the Bankruptcy Law (that is, the person in respect of whose property a declaration of *en désastre* has been made) must forthwith upon such declaration resign any directorship he has. If he fails to do so, he commits an offence and is liable to a fine and/or imprisonment.

If in the course of a *désastre* of a company the Attorney General considers it to be in the public interest that a director of that company should not be a director or concerned in the management of a company, he may apply to the court for an order to that effect, for up to fifteen years. If a person acts in contravention of such an order, he is guilty of an offence and liable to a fine and/or imprisonment. Additionally, he will be personally responsible for the liabilities of the company incurred during the time he acted in contravention of the order.

If, at some time before the declaration *en désastre* of a company (the relevant time), a director of that company knew that there was no reasonable prospect that, or was reckless as to whether, the company would avoid a declaration, the court may order him to be personally responsible for all the company's liabilities arising from the relevant time.

8. **INSIDER DEALING & MARKET ABUSE**

Both Jersey and the United Kingdom have statutory provisions addressing insider dealing that are relevant to directors of Jersey-incorporated companies with GDRs traded on the London Stock Exchange.

8.1. **The Insider Dealing Law**

Under Jersey law, specifically the Company Securities (Insider Dealing) Law 1988, directors (and certain company insiders) are prohibited from dealing, on their own account, on a recognised stock exchange in securities of a company with which they are, or have in the previous six months been, connected, if they have information as a result of that connection which they know to be confidential unpublished price sensitive information in relation to those securities.

They are also prohibited from dealing in securities of a second company, if by reason of their connection with the company they have confidential price sensitive information about a transaction between the two companies.

Acting in contravention of either of these prohibitions is an offence punishable by a fine and/or up to seven years' imprisonment.

8.2. **Market abuse and insider dealing**

The EU Market Abuse Directive ("**MAD**") has been transposed into English law through amendments to the Financial Services and Markets Act 2000 and by the provisions of the Disclosure Rules. It is expected that there will be amendments made to Jersey law reflecting the wider concepts of market abuse to supplement insider dealing legislation.

The Market Abuse Directive defines two broad categories of behaviour as abusive:

- insider dealing – where a person seeks to use information that has not been made public but if it were made public would be likely to have a significant effect on the prices of financial instruments; and
- market manipulation – where a person seeks to distort the price of financial instruments, or effect transactions or orders to trade, or disseminates information in a manner that gives, or is likely to give, false or misleading signals about financial instruments.

There are now seven market abuse offences (which apply to everyone who participates in, or whose conduct affects, the UK's financial markets) as follows:

- dealing, or attempting to deal, on the basis of inside information – market abuse (insider dealing);
- disclosing inside information other than in the proper course of a person's employment, profession or duties – market abuse (improper disclosure);
- effecting transactions or orders to trade (other than for legitimate reasons and in conformity with accepted market practices) that give a false or misleading impression about the supply or price of investments or secure the price at an abnormal level – market abuse (manipulating transaction);
- effecting transactions or orders to trade that employ fictitious devices or any form of deception – market abuse (manipulating devices);
- disseminating false or misleading information – market abuse (dissemination);
- behaviour based on relevant information that is not generally available and that would be regarded by a regular user as a failure to observe the standard of behaviour reasonably expected – market abuse (misuse of information); and

- behaviour that gives a false or misleading impression about the supply of or price of investments or that would be regarded by a regular user as behaviour that would distort the market and that the regular user would regard as a failure to observe the standard reasonably expected – market abuse (misleading behaviour) and market abuse (distortion).

The offences cover behaviour in relation to a wide range of qualifying investments that are admitted to trading on a domestic market or an EU regulated market or in respect of which a request for admission has been made.

Under the civil market abuse regime, the FSA can impose penalties on companies with listed GDRs or individuals. These may comprise either a financial penalty of such amount as the FSA considers appropriate or a public censure. The FSA may also apply to the court for injunctions or restitution orders in cases of market abuse.

A director who complies with his disclosure and other obligations under the Disclosure Rules and Listing Rules is unlikely to be affected by the market abuse regime in normal circumstances. However, a director who is concerned that any behaviour (which can include both action and inaction) either on his part or on the part of the company may constitute market abuse should either consult the FSA or obtain specific advice from legal counsel.

8.3. **Criminal Justice Act 1993**

Under the Criminal Justice Act 1993 (the "**Criminal Justice Act**"), when a director has inside information he must not deal in any listed securities that are affected by the inside information (not just securities in the company of which he is a director). Inside information for the purposes of the Criminal Justice Act, broadly, is information about particular securities or a particular company that is specific or precise, has not been made public, and would be likely to have a significant effect on the price of any securities if it were made public. The director must know that it is inside information and must have acquired it as a director, employee or shareholder of a company or by virtue of his employment, office or profession, or directly or indirectly from someone who received it in one of those ways.

Directors who have inside information must not encourage someone else to deal (even if no dealings take place). Passive participation in a board meeting that decides to authorise someone to deal may amount to encouraging someone else to deal. Directors must also refrain from disclosing inside information, except in the proper performance of their job.

There are a number of defences available, but directors should take advice before relying on these. Breach of the Criminal Justice Act is a criminal offence punishable by imprisonment or a fine or both.

In practice the FSA may well choose to launch a civil action against a person who has dealt using inside information rather than a criminal prosecution under the Criminal Justice Act due to the lower burden of proof (the Financial Services and Markets Tribunal has confirmed that the burden of proof for the civil action is on the 'balance of probabilities').

9. MODEL CODE

The Model Code is a procedural regime requiring a director to obtain prior clearance from the Chairman of the Company before dealing. Companies must take all proper and reasonable steps to ensure that every person discharging management responsibility (defined in Appendix C of this guide) and every employee with access to inside information complies with the Model Code. The Company has elected to adopt the Disclosure Policy and the Insider Trading Policy which is based on and is at least as rigorous as the Model Code. This code of securities dealings is provided to all directors and senior executives and employees of all group companies and is available upon request from the Company's general counsel.

The Model Code sets out times and occasions when those subject to it must not deal in any publicly traded or quoted securities of the company or any other member of its group or any securities convertible into such securities.

Those subject to the Model Code must not deal without obtaining prior clearance to deal, which must not be given:

- where the dealing is based on considerations of a short-term nature;
- during a 'close period' before the announcement or publication of annual results, the half-yearly report and, if applicable, quarterly results; or
- at a time when there is inside information relating to the company.

There are also obligations on "relevant employees" (defined for these purposes as an employee of a listed company or a director or employee of a subsidiary undertaking or parent undertaking, who because of his office or employment is likely to be in possession of unpublished price sensitive information) as regarding dealings: a) by or on behalf of their connected persons; and b) by investment managers on their behalf or on behalf of any connected person.

Clearance for dealing must be sought from specified persons as set out in the Model Code. Clearance or refusal must be given within five business days of the request to deal being made. If clearance to deal is granted, the transaction must be carried out as soon as possible and, in any event, within two business days of receiving clearance. The company must keep a record of all responses to all dealing requests and any clearance given.

The Model Code is set out in full in Appendix C to this guide.

10. CORPORATE GOVERNANCE

10.1. Introduction

In the UK, the principles of good corporate governance and a code of best practice are set out in the Combined Code on Corporate Governance published by the Financing Reporting Council in 2003 as subsequently amended and restated in 2006 (the "**Combined Code**") and attached to the Listing Rules. The Combined Code is primarily aimed at listed companies

incorporated in the UK (excluding Jersey), however any company with securities listed in London may nonetheless consider that it would be appropriate to adopt wherever possible the approach in the Combined Code. The Company has stated in its 2007 annual report its continued intention, so far as is possible, is to comply with the recommendations of the Combined Code as if it were a public company incorporated in England and Wales. We have therefore set out below some of the principles and codes of best practice that will be relevant for consideration under the Combined Code.

Other bodies in the UK have also published recommendations on corporate governance. Included amongst the more influential of these are the Statement of Best Practice on the "Role and Duties of Directors" published by the Institutional Shareholders Committee (the "**ISC**") and the Shareholder Voting Guidelines published by Pensions Investment Research Consultants Limited ("**PIRC**"). The ISC is constituted by representatives of the Association of British Insurers (the "**ABI**"), the National Association of Pension Funds (the "**NAPF**"), the London Investment Banking Association, the Association of Unit Trusts and Investment Funds and the Association of Investment Trust Companies. PIRC is an independent company providing investment and corporate governance advice to institutional and local authority investors. Although the publications of neither body carry the official weight of the Combined Code, it would be imprudent to ignore the voting power of the GDR holders represented by the ISC and advised by PIRC.

The directors of a company with listed securities may find that the following points relating to corporate governance are of particular interest:

10.2. **Non-executive directors**

Non-executive directors owe the same duties as executive directors to act in the best interests of the company but are not usually company employees and may not have the same involvement in the company's day to day affairs as the executive directors. Non-executive directors are usually appointed because of their particular skills or experience.

The Combined Code emphasises the importance of non-executive directors and, more especially, independent non-executive directors on the board. It provides for the appointment of one of the independent non-executive directors to be the senior independent director, who should be available to shareholders if they have concerns that the normal channels have failed to resolve.

The Combined Code does not provide details on the specific role of the non-executive directors. The Higgs Suggestions for Good Practice, which are issued in connection with the Combined Code suggest the following description of the key elements of the role of the non-executive director:

- **Strategy:** Non-executive directors should constructively challenge and help develop proposals on strategy;
- **Performance:** Non-executive directors should scrutinise the performance of management in meeting agreed goals and objectives, and monitor the reporting of performance;

- **Risk:** Non-executive directors should satisfy themselves on the integrity of financial information and that financial controls and systems of risk management are robust and defensible; and
- **People:** Non-executive directors are responsible for determining appropriate levels of remuneration of executive directors and have a prime role in appointing, and where necessary removing, executive directors and in succession planning.

The importance of non-executive directors on the board has been stressed in successive reports over the years by Cadbury (commissioned by the Financial Reporting Council), Hampel (sponsored by the London Stock Exchange) and, most recently, Higgs and Smith (both commissioned by the Department of Trade and Industry). Non-executive directors can provide a fresh impartial view in board discussions and decision making and should have a particularly influential role through committees of the board consisting mainly or entirely of non-executive directors.

Non-executive directors have equal responsibility with other board members for the leadership of the company, as well as having important monitoring and strategic functions. Both the Combined Code and The Higgs' Suggestions for Good Practice reflect this.

The Combined Code provides, among other things, that:

At least a majority of non-executive directors should be independent (paragraph A.3.2). The Combined Code contains a definition of when a director can be considered independent (paragraph A.3.1) which is described below (under it, former employees of a company would not qualify as independent).

The board should determine whether the director is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, the director's judgement.

Such relationships or circumstances would include where the director:

- is a former employee of the company or group until five years after employment has ended;
- has, or has had within the last three years, a material business relationship with the company either directly, or as a partner, shareholder, director or senior employee of a body that has such a relationship with the company;
- has received or receives additional remuneration from the company apart from a director's fee, participates in the company's share option scheme or a performance-related pay scheme, or is a member of the company's pension scheme;
- has close family ties with any of the company's advisers, directors or senior employees;

- holds cross-directorships or has significant links with other directors through involvement in other companies or bodies;
- represents a significant shareholder; or
- has served on the board for more than nine years from the date of their first election.

The Combined Code reflects the suggestions in the Higgs Report and provides that non-executive independent directors should comprise half the board (excluding the Chairman) (paragraph A.3.2). A listed company needs at least three non-executive directors, in addition to the Chairman, in order to comply with the Combined Code's requirements in relation to non-executive directors and their roles on the audit, remuneration and nomination committees (discussed below).

10.3. **Operation of the board, the use of committees and internal control**

Proceedings of the board

Board meetings of public companies are usually convened at regular intervals throughout the year. Proceedings, including the giving of notice, the quorum and voting procedures, are governed by the Company's articles of association and the general law.

The Combined Code provides that the board should have a formal schedule of matters which should always be referred to a decision of the full board to ensure that control of the company is firmly in the hands of the board (paragraph A.1.1). Matters that should be considered for inclusion in such list include:

- any material acquisition or disposal of assets of the company or its subsidiaries; and
- investments, capital projects, authority levels, treasury policies and risk management policies.

The Cadbury Report also recommended that the board should:

- lay down rules to determine materiality for any transaction;
- establish clearly which transactions require multiple board signatures; and
- agree the procedures to be followed when decisions are required between board meetings.

In addition, to avoid too great a concentration of power, the Combined Code recommends that the role of Chairman and Chief Executive should not be combined. The division of responsibilities between the Chairman and Chief Executive should be clearly established, set out in writing and agreed by the board (paragraph A.2.1 of the Combined Code). The Combined Code further recommends that where, exceptionally, the two roles are combined, the board

should consult major shareholders in advance and should set out its reasons to shareholders at the time of appointment and in the next annual report (paragraph A.2.2 of the Combined Code).

The Combined Code provides that there should be an agreed procedure for all directors to take independent professional advice, at the company's expense, in the furtherance of their duties (paragraph A.5.2).

Committees

A company's articles of association usually provide for the board to delegate any of its powers to a committee. The Combined Code recommends the use of audit, remuneration and nomination committees and this is further reflected in the articles of Trader Media East Limited which provide that both a remuneration and nomination committee (the "**Remuneration Committee**" and "**Nomination Committee**" respectively)¹ and an audit committee (the "**Audit Committee**") shall be established with the powers and responsibilities set out in Appendix B.

It is important that the board should set out clearly the powers and responsibilities of any committee to which it delegates functions (paragraph A.1.1). The extent to which the committee is empowered to take decisions should be carefully defined. This is particularly important where it includes non-board members. If there is any doubt about the scope of the committee's powers in these circumstances, a court is likely to assume that important decisions were intended to be reserved to the full board.

Under the recommendations of the Combined Code, the audit committee and the remuneration committee should be formed by at least three independent non-executive directors (paragraphs C.3.1 and B.2.1) and the nomination committee should consist of a majority of independent non-executive directors (paragraph A.4.1).

Audit committee

The Combined Code provides that all listed companies should appoint an audit committee with written terms of reference (paragraph C.3.1). It further provides that the purpose of the audit committee is to keep under review the scope and results of the audit and its cost effectiveness and the independence and objectivity of the auditors. The Combined Code recommends that membership should consist of at least three directors, all of whom are independent non-executive directors and at least one member of the audit committee should have recent and relevant financial experience (paragraph C.3.1).

The main role and responsibilities should be set out in written terms of reference and should include:

¹ It is noted that the Company's Compensation Committee carries out the functions of the "Nominations Committee and the Remuneration Committee".

- monitoring the integrity of the financial statements of the company and any formal announcements relating to the company's financial performance and reviewing significant financial reporting judgements contained in them;
- reviewing the company's internal financial control system and, unless expressly addressed by a separate risk committee composed of independent directors or by the board itself, risk management systems;
- monitoring and reviewing the effectiveness of the company's internal audit function;
- making recommendations to the board in relation to the appointment, re-appointment and removal of the external auditor and approving the remuneration and terms of engagement of the external auditor;
- monitoring and reviewing the external auditor's independence and objectivity and the effectiveness of the audit process, taking into consideration relevant UK professional and regulatory requirements; and
- developing and implementing policy on the engagement of the external auditor to supply non-audit services, taking into account relevant ethical guidance regarding the provision of non-audit services by the external audit firm.

Remuneration Committee

Under the Combined Code, the remuneration committee should be responsible for determining the company's remuneration policy for executive directors and where appropriate, other senior executives (paragraph B.2.2). The Combined Code recommends that the remuneration committee should comprise at least three independent non-executive directors (paragraph B.2.1). The remuneration committee should consult the Chairman and/or Chief Executive about their proposals relating to the remuneration of other executive directors, and should also be responsible for appointing any consultants in respect of executive director remuneration, where appropriate (paragraph B.2.1).

The Combined Code provides that the final determination of the remuneration packages for non-executive directors is a matter for the Chairman and executive members of the board (paragraph B.2.3).

Nomination Committee

The Combined Code provides that this committee should consist of a majority of independent non-executive directors and is to propose to the board, in the first instance, any new appointments to the board, whether executive or non-executive (paragraph A.4.1).

Reporting to Shareholders

The Combined Code includes recommendations for increased disclosure obligations to be included in annual reports in relation to the various recommended committees, their membership and the frequency of committee meetings. These include explaining in the annual report the directors' responsibility for preparing the accounts of the Company and there should also be a statement by the auditors about their reporting responsibilities (paragraph C.1.1). The directors should also report that the business is a going concern, with supporting assumptions or qualifications as necessary (paragraph C.1.2).

The Combined Code also sets out how a company should use the AGM to communicate with its shareholders and to encourage their participation (paragraphs D.2.1 – D.2.4). The Company should propose a separate resolution on each separate issue and should in particular propose a resolution at the AGM relating to the report and accounts. The Chairman should arrange for the Chairman of the Audit, Remuneration and Nomination Committees to be available to answer questions at the AGM and for all directors to attend. The Company should arrange for the notice of the AGM and related papers to be sent to shareholders at least 20 working days before the meeting.

Internal Control

The Turnbull Committee, set up by the Institute of Chartered Accountants of England and Wales with the backing of the FSA at the time of publication of the Combined Code, has published guidelines (annexed to the Combined Code) to assist listed companies to implement the requirements relating to internal control contained in the Combined Code, which includes:

- The board has to maintain a sound system of internal control and has to review the effectiveness of this at least annually. The review should cover all controls, including financial, operational and compliance controls and risk management (paragraph C.2.1); and
- Companies which do not have an internal audit function should from time to time review the need for one (paragraph C.3.5).

10.4. Appointment and removal of directors

Directors appointments are made in accordance with a company's articles of association, normally by the members in general meeting but the board is able to appoint further directors to fill casual vacancies or to make additional appointments. All directors of Trader Media East Limited are required by the Company's articles of association to retire but may stand for re-election at each annual general meeting of the Company.

The articles of association of the Company provide for a director's automatic removal in certain circumstances (for example, if he is disqualified by law from acting as a director, if he becomes bankrupt or if he is removed from office by an ordinary resolution of the shareholders). The shareholders also

have a right under the articles of association to remove directors by special resolution or by ordinary notice of which special notice has been given.

The Combined Code recommends that:

- a formal, rigorous and transparent procedure is adopted for the appointment of all new directors (including non-executive directors) to the board (Main Principle A.4);
- the terms and conditions of non-executive directors should be made available for inspection;
- the letters of appointment of non-executive directors should set out the expected time commitment;
- non-executive directors should undertake that they will have sufficient time to meet what is expected of them; and
- other significant commitments of non-executive directors should be disclosed to the board before appointment, with a broad indication of the time involved (and the board should be informed of any subsequent changes).

The Combined Code recommends that non-executive directors should be appointed for a specified term. It also recommends that re-appointment should not be automatic (paragraph A.7.2).

The Combined Code strongly recommends that notice or contract periods should be set at, or reduced to, one year or less (paragraph B.1.6); boards should set such an objective as a target, although the Combined Code recognises that it may not be possible for them to achieve this objective immediately. Where longer notice or contract periods are offered to new directors recruited from outside the company, the Combined Code recommends that such periods should be reduced after the initial period (paragraph B.1.6).

10.5. **Company Secretary**

The Combined Code recommends that all directors should have access to the advice and services of the company secretary, who typically reports to the Chairman of the board and is responsible to the board for ensuring that board procedures are complied with, and that the appointment and removal of the company secretary should be a matter for the board as a whole (paragraph A.5.3 of the Combined Code).

The Companies Law requires the directors of public companies to ensure that the company secretary is a person who appears to them to have the requisite knowledge, experience and qualifications to discharge his functions and is qualified for that purpose in accordance with the Companies Law.

11. TAKEOVERS

The City Code on Takeovers and Mergers (the "**City Code**") is a regulatory code of best practice designed principally to ensure fair and equal treatment of all shareholders in relation to takeovers. It is common for the day-to-day conduct of a takeover offer to be delegated to individual directors or, more usually, a committee of the board. However, as the City Code makes clear, the board as a whole must ensure that proper arrangements are in place to enable it to monitor the day-to-day conduct of the offer so that each director may fulfil his responsibilities under the City Code.

As well as implementing these arrangements, the City Code requires board meetings to be held as and when necessary throughout the offer to ensure that all directors are kept up-to-date with events and with actions taken. Any director who has a question concerning the propriety of an action as far as the City Code is concerned should ensure that the Panel on Takeovers and Mergers is consulted.

The directors of a company subject to a takeover offer owe fiduciary duties to the company in the normal way. They must exercise their powers for a proper purpose and not, for example, to frustrate the offer. They will also need to comply with the City Code. In particular, they must provide shareholders with sufficient information and advice to reach a properly informed decision and, in advising their shareholders, must act only in their capacity as directors and not have regard to their personal positions. When advising shareholders, they have a fiduciary duty to be honest and not to mislead; to do otherwise may give rise to criminal or civil liability.

APPENDIX A: JERSEY COMPANIES LAW OFFENCES

The following is a summary of some of the circumstances in which offences may be committed by directors of a Jersey public company and which may result in the director being liable to a fine (and in some cases also to imprisonment):

- If a company fails to keep a register of members containing the prescribed information.
- A company fails to keep a register of directors and secretaries, or if it refuses to allow a proper inspection of the register.
- Where a company gives financial assistance for the purchase of its own shares (or those of its parent company) in contravention of the detailed provisions of the Companies Law.
- Where statements to be made by directors for the purposes of a redemption or repurchase of the company's shares are made without reasonable grounds for opinions expressed.
- Circulation by any person of a prospectus and/or the procuring of the circulation of a prospectus without the necessary consents.
- A person authorises the circulation of a prospectus containing an untrue or misleading statement or omitting a material fact.
- If a public company pays a commission to a person in consideration of his subscribing or agreeing to subscribe for shares, but without disclosing in a prospectus or to the registrar the amount or rate of the commission and the number of shares concerned.
- An officer or secretary of a company, knowingly or recklessly makes to the company's auditors a misleading, false or deceptive statement.
- Where a company fails to have ready for delivery certificates of all shares allotted or transferred within two months of the allotment or lodging of the transfer (unless the conditions of allotment of shares provide otherwise).
- Where a public company admits a member or allots shares with rights which are not stated in its memorandum or articles (or in a resolution or agreement of which a copy is required by the Companies Law to be delivered to the registrar) and it fails to deliver to the registrar within the prescribed time a statement of the particulars of those rights.
- Where a company is proposing to reduce its capital accounts and an officer of the company: (i) wilfully conceals the name of a creditor entitled to object to the reduction of capital; or (ii) wilfully misrepresents the nature or amount of a creditor's debt or claim; or (iii) aids, abets or is privy to any such concealment or misrepresentation.
- A person acts in contravention of a disqualification order of the Court.

- A company fails to hold an Annual General Meeting as required by the Companies Law.
- A company fails to include in a notice calling a meeting of the company a reasonably prominent statement that a member entitled to attend and vote is allowed to appoint proxies who need not also be members.
- There is issued at a company's expense to only some of the members entitled to notice of a meeting, any invitation to appoint as proxy a person or persons specified in the invitation.
- A company fails to keep proper minutes (including a record of the names of directors present) of meetings of any class of its members, meetings of its directors or of a committee of directors.
- A company fails within seven days to comply with the written request of a member (who has not previously received a copy of the company's latest accounts) for a copy of those accounts or of any auditors' report.
- A public company fails to comply with the provisions of the Companies Law regarding the keeping of accounting records, the retention of accounting records, the preparation of accounts and delivery of accounts to the registrar.
- A company which is required (whether by reason of its being a public company, or by its articles or a resolution in general meeting) to appoint auditors fails to do so.
- Where an auditor ceases to hold office and the company fails to send to every member of the company (and every person entitled to receive notice of general meetings) any statement required by the Companies Law.
- A company fails to comply with the requirements of the Companies Law as to the giving of notices to creditors and members regarding a compromise with such creditors or members.
- A director fails to give to the company notice of such matters relating to himself as may be necessary for the purposes of the Companies Law.
- A person gives false, misleading or deceptive information to an inspector appointed to investigate and report on the affairs of a company.
- Where an officer of a company uses or authorises the use of a seal which purports to be a seal of the company and on which its name is not engraved in legible characters.

As noted in the main part of this guide, the winding-up process can lead to extensive personal liabilities for directors. Under Jersey law, the directors of a company have certain obligations where, after the commencement of a summary winding up, they form the opinion that the company has liabilities which it will be unable to discharge in full within six months of the commencement of the winding up.

- A director, who signs a statement of solvency or certificate of termination delivered to the registrar (in the context of a summary winding up of the

company) without having reasonable grounds for stating that the company has no liabilities or will be able to discharge its liabilities in full.

- Where the court makes an order winding up a company, and the company fails within 14 days to deliver the order of the court to the registrar.
- Where a company passes a resolution for a creditors' winding up but fails within 14 days to give notice of the resolution by advertisement in the Jersey Gazette.
- Meeting of creditors in creditors' winding up: If the directors fail without reasonable excuse to make a statement as to the affairs of the company (verified by affidavit), to lay that statement before the meeting, or to appoint a director to preside (or a director is appointed to preside, but fails without reasonable excuse to do so).
- Where a creditors' winding up has commenced, but no liquidator has been appointed, and the directors exercise their powers without the court's consent (save to secure compliance with the Companies Law and to protect the company's assets) and without reasonable excuse.
- If an officer, past or present, fails without reasonable excuse to cooperate with a liquidator of a company.
- Where a company is in liquidation, but fails to include in all invoices, orders and business letters where the name of the company appears, a statement that the company is in liquidation.
- Where a company has been wound up, a person who acts in contravention of the direction of a special resolution, liquidation committee, creditors, or the Jersey Financial Services Commission as to retention or disposal of records.

APPENDIX B: POWERS AND RESPONSIBILITIES OF THE REMUNERATION AND NOMINATIONS COMMITTEE AND AUDIT COMMITTEE OF TRADER MEDIA EAST LIMITED (THE COMPANY)

The Remuneration and Nominations Committee

The Remuneration and Nominations Committee shall be established to:

- (a) develop and control internal practices and rules as to financial compensation, including any stock option or award plans, for the members of the board of directors, senior managers and any other key officers or employees of the Company and its subsidiaries, including:
 - (i) proposals for the grant of stock options and making recommendations regarding such grants to the board of directors;
 - (ii) review of the objectives, costs and administration of all remuneration policies;
 - (iii) negotiate and approve any employment agreements or other compensation agreements to be entered into between the Company and any member of the Company's senior management;
- (b) develop procedures and criteria upon which to evaluate the performance of the Company's executive directors and conduct and discuss such evaluation with the executive directors on an annual basis;
- (c) review the structure of the board and of directors identify potential candidates to be appointed as directors, as the need may arise any role in relation to subsidiaries;
- (d) determine succession plans for the Chairman and Chief Executive Officer of the Company; and
- (e) generate an annual remuneration report to be approved by the shareholders of the Company at the annual general meeting.

The Remuneration and Nominations Committee will meet not less than twice a year.

The Remuneration and Nominations Committee shall be appointed by the directors of the Company (who shall also designate the Chairman of this Committee) and shall consist of not less than three members, a majority of whom shall be persons having no executive capacity for The Remuneration and Nominations Committee or any of its subsidiaries (other than by virtue of holding office as a non-executive director) and who the directors are satisfied are independent in character and judgment and free from any relationship or circumstance which may, could or would be likely to, or appear to, affect their judgment as members of such Committee.

Audit Committee

An Audit Committee shall be established to:

- (a) review, prior to filing or publication, any of the Company's interim financial statements;
- (b) review, with management and the Company's external auditors, the financial statements and disclosures to be included in the Company's annual financial statements and any annual report;
- (c) review, prior to publication, any financial information made public through quarterly and half-year press releases on the Company's results;
- (d) monitor the Company's financial, accounting and legal practices against relevant ethical standards;
- (e) review any changes in accounting methods and main judgments made by management at the close of the half-year and annual consolidated financial statements;
- (f) supervise and discuss with management and with the Company's external auditors, the Company's compliance with accounting and financial internal control processes;
- (g) recommend the appointment, termination and replacement of the Company's external auditors to the board of directors and the Company's shareholders and approve the remuneration and terms of engagement of the Company's external auditors;
- (h) review and discuss with the Company's external auditors their scope and plans for their audit and their eventual findings, including any difficulties encountered in the course of their audit work and any significant disagreements with management;
- (i) monitor and review the independence of the Company's external auditors and the objectivity and effectiveness of the audit process;
- (j) develop and implement policy on the engagement of the Company's external auditors to supply non-audit services; and
- (k) direct the Company's internal audit function and review and analyze the reports issued by the internal audit team after a written response from management.

The Audit Committee will meet at least four times a year.

The Audit Committee shall be appointed by the directors of the Company (who shall also designate the Chairman of this Committee) and shall consist of not less than three members, a majority of whom shall be persons having no executive capacity for

the Company or any of its subsidiaries (other than by virtue of holding office as a non-executive director) and who the directors are satisfied are independent in character and judgment and free from any relationship or circumstance which may, could or would be likely to, or appear to, affect their judgment as members of such Committee.

APPENDIX C: THE MODEL CODE

Introduction

This code imposes restrictions on dealing in the *securities* of a *listed company* beyond those imposed by law. Its purpose is to ensure that *persons discharging managerial responsibilities* do not abuse, and do not place themselves under suspicion of abusing, *inside information* that they may be thought to have, especially in periods leading up to an announcement of the *company's* results.

Nothing in this code sanctions a breach of section 118 of the Act (Market abuse), the insider dealing provisions of the Criminal Justice Act or any other relevant legal or regulatory requirements.

Definitions

- 1 In this code the following definitions, in addition to those contained in the *listing rules*, apply unless the context requires otherwise:
 - (a) *close period* means:
 - (i) the period of 60 days immediately preceding a preliminary announcement of the *listed company's* annual results or, if shorter, the period from the end of the relevant financial year up to and including the time of announcement; or
 - (ii) the period of 60 days immediately preceding the publication of its annual financial report or if shorter the period from the end of the relevant financial year up to and including the time of such publication; and
 - (iii) if the *listed company* reports on a half yearly basis the period from the end of the relevant financial period up to and including the time of such publication; and
 - (iv) if the *listed company* reports on a quarterly basis the period of 30 days immediately preceding the announcement of the quarterly results or, if shorter, the period from the end of the relevant financial period up to and including the time of the announcement;
 - (b) *connected person* has the meaning given in section 96B (2) of the Act (Persons discharging managerial responsibilities and connected persons);
 - (c) dealing includes:
 - (i) any acquisition or disposal of, or agreement to acquire or dispose of any of the *securities* of the *company*;
 - (ii) entering into a contract (including a contract for difference) the purpose of which is to secure a profit or avoid a loss by reference to fluctuations in the price of any of the *securities* of the *company*;
 - (iii) the grant, acceptance, acquisition, disposal, exercise or discharge of any option (whether for the call, or put or both) to acquire or dispose of

any of the *securities* of the *company*;

- (iv) entering into, or terminating, assigning or novating any stock lending agreement in respect of the *securities* of the *company*;
 - (v) using as security, or otherwise granting a charge, lien or other encumbrance over the *securities* of the *company*;
 - (vi) any transaction, including a transfer for nil consideration, or the exercise of any power or discretion effecting a change of ownership of a beneficial interest in the *securities* of the *company*; or
 - (vii) any other right or obligation, present or future, conditional or unconditional, to acquire or dispose of any *securities* of the *company*;
- (d) [deleted].
- (e) *prohibited period* means:
- (i) any *close period*; or
 - (ii) any period when there exists any matter which constitutes *inside information* in relation to the *company*;
- (f) *restricted person* means a *person discharging managerial responsibilities*; and
- (g) *securities* of the *company* means any publicly traded or quoted *securities* of the *company* or any member of its *group* or any securities that are convertible into such *securities*.

Dealings not subject to the provisions of this code

- 2 The following dealings are not subject to the provisions of this code:
- (a) undertakings or elections to take up entitlements under a rights issue or other offer (including an offer of *securities* of the *company* in lieu of a cash dividend);
 - (b) the take up of entitlements under a rights issue or other offer (including an offer of *securities* of the *company* in lieu of a cash dividend);
 - (c) allowing entitlements to lapse under a rights issue or other offer (including an offer of *securities* of the *company* in lieu of a cash dividend);
 - (d) the sale of sufficient entitlements nil-paid to take up the balance of the entitlements under a rights issue;
 - (e) undertakings to accept, or the acceptance of, a takeover offer;
 - (f) dealing where the beneficial interest in the relevant *security* of the *company* does not change;

- (g) transactions conducted between a *person discharging managerial responsibilities* and their spouse, civil partner, child or step-child (within the meaning of section 96B(2) of the *Act*);
- (h) transfers of *shares* arising out of the operation of an *employees' share scheme* into a savings scheme investing in *securities* of the *company* following:
 - (i) exercise of an option under an approved SAYE option scheme; or
 - (ii) release of *shares* from a HM Revenue and Customs approved share incentive plan;
- (i) with the exception of a disposal of *securities* of the *company* received by a restricted person as a participant, dealings in connection with the following *employees' share schemes*;
 - (i) an HM Revenue and Customs approved SAYE option scheme or share incentive plan, under which participation is extended on similar terms to all or most employees of the participating *companies* in that scheme; or
 - (ii) a scheme on similar terms to a HM Revenue and Customs approved SAYE option scheme or share incentive plan, under which participation is extended on similar terms to all or most employees of the participating *companies* in that scheme; or
- (j) the cancellation or surrender of an option under an employees' share scheme;
- (k) transfers of the *securities* of the *company* by an independent trustee of an *employees' share scheme* to a beneficiary who is not a restricted person;
- (l) transfers of *securities* of the *company* already held by means of a matched sale and purchase into a saving scheme or into a pension scheme in which the restricted person is a participant or beneficiary;
- (m) an investment by a restricted person in a scheme or arrangement where the assets of the scheme (other than a scheme investing only in the *securities* of the *company*) or arrangement are invested at the discretion of a third party;
- (n) a dealing by a restricted person in the units of an authorised unit trust or in *shares* in an *open-ended investment company*; and
- (o) bona fide gifts to a restricted person by a third party.

Dealing by restricted persons

- 3 A restricted person must not deal in any *securities* of the *company* without obtaining clearance to deal in advance in accordance with paragraph 4 of this code..

Clearance to deal

- 4 (a) A *director* (other than the chairman or chief executive) or company secretary must not deal in any *securities* of the *company* without first notifying the chairman (or a *director* designated by the board for this purpose) and receiving clearance to deal from him.
 - (b) The chairman must not deal in any *securities* of the *company* without first notifying the chief executive and receiving clearance to deal from him or, if the chief executive is not present, without first notifying the senior independent director, or a committee of the board or other officer of the *company* nominated for that purpose by the chief executive, and receiving clearance to deal from that director, committee or officer.
 - (c) The chief executive must not deal in any *securities* of the *company* without first notifying the chairman and receiving clearance to deal from him or, if the chairman is not present, without first notifying the senior independent director, or a committee of the board or other officer of the *company* nominated for that purpose by the chairman, and receiving clearance to deal from that director, committee or officer.
 - (d) If the role of chairman and chief executive are combined, that *person* must not deal in any *securities* of the *company* without first notifying the board and receiving clearance to deal from the board.
 - (e) *Persons discharging managerial responsibilities* (who are not *directors*) must not deal in any *securities* of the *company* without first notifying the company secretary or a designated *director* and receiving clearance to deal from him.
- 5 A response to a request for clearance to deal must be given to the relevant restricted person within five *business days* of the request being made.
 - 6 The *company* must maintain a record of the response to any dealing request made by a restricted person and of any clearance given. A copy of the response and clearance (if any) must be given to the restricted person concerned.
 - 7 A restricted person who is given clearance to deal in accordance with paragraph 4 must deal as soon as possible and in any event within two *business days* of clearance being received.

Circumstances for refusal

- 8 A restricted person must not be given clearance to deal in any *securities* of the *company*:
- (a) during a prohibited period; or
 - (b) on considerations of a short term nature. An investment with a maturity of one year or less will always be considered to be of a short term nature.

Dealings permitted during a prohibited period

Dealing in exceptional circumstances

- 9 A restricted person, who is not in possession of *inside information* in relation to the *company*, may be given clearance to deal if he is in severe financial difficulty or there are other exceptional circumstances. Clearance may be given for such a *person* to sell (but not purchase) *securities* of the *company* when he would otherwise be prohibited by this code from doing so. The determination of whether the *person* in question is in severe financial difficulty or whether there are other exceptional circumstances can only be made by the *director* designated for this purpose.
- 10 A *person* may be in severe financial difficulty if he has a pressing financial commitment that cannot be satisfied otherwise than by selling the relevant *securities* of the *company*. A liability of such a *person* to pay tax would not normally constitute severe financial difficulty unless the *person* has no other means of satisfying the liability. A circumstance will be considered exceptional if the *person* in question is required by a court order to transfer or sell the *securities* of the *company* or there is some other overriding legal requirement for him to do so.
- 11 The *FSA* should be consulted at an early stage regarding any application by a restricted person to deal in exceptional circumstances..

Awards of securities and options

- 12 The grant of options by the board of *directors* under an *employees' share scheme* to individuals who are not restricted persons may be permitted during a prohibited period if such grant could not reasonably be made at another time and failure to make the grant would be likely to indicate that the *company* was in a prohibited period.
- 13 The award by the *company* of *securities*, the grant of options and the grant of rights (or other interests) to acquire *securities* of the *company* to restricted persons is permitted in a prohibited period if:
- (a) the award or grant is made under the terms of an *employees' share scheme* and the scheme was not introduced or amended during the relevant prohibited period; and
 - (b) either:

- (i) the terms of such *employees' share scheme* set out the timing of the award or grant and such terms have either previously been approved by shareholders or summarised or described in a document sent to shareholders, or
 - (ii) the timing of the award or grant is in accordance with the timing of previous awards or grants under the scheme; and
- (c) the terms of the *employees' share scheme* set out the amount or value of the award or grant or the basis on which the amount or value of the award or grant is calculated and do not allow the exercise of discretion; and
- (d) the failure to make the award or grant would be likely to indicate that the *company* is in a prohibited period.

Exercise of options

- 14 Where a *company* has been in an exceptionally long prohibited period or the *company* has had a number of consecutive prohibited periods, clearance may be given to allow the exercise of an option or right under an *employees' share scheme*, or the conversion of a convertible security, where the final date for the exercise of such option or right, or conversion of such security, falls during a prohibited period and the restricted person could not reasonably have been expected to exercise it at a time when he was free to deal.
- 15 Where the exercise or conversion is permitted pursuant to paragraph 14, clearance may not be given for the sale of the *securities* of the *company* acquired pursuant to such exercise or conversion including the sale of sufficient *securities* of the *company* to fund the costs of the exercise or conversion and/or any tax liability arising from the exercise or conversion unless a binding undertaking to do so was entered into when the *company* was not in a prohibited period.

Qualification shares

- 16 Clearance may be given to allow a *director* to acquire qualification *shares* where, under the *company's constitution*, the final date for acquiring such *shares* falls during a prohibited period and the *director* could not reasonably have been expected to acquire those shares at another time.

Saving schemes

- 17 A restricted person may enter into a scheme under which only the *securities* of the *company* are purchased pursuant to a regular standing order or direct debit or by regular deduction from the *person's* salary, or where such *securities* are acquired by way of a standing election to re-invest dividends or other distributions received, or are acquired as part payment of the *person's* remuneration without regard to the provisions of this code, if the following provisions are complied with:
- (a) the restricted person does not enter into the scheme during a prohibited period, unless the scheme involves the part payment of remuneration in the form of *securities* of the *company* and is entered into upon the

commencement of the *person's* employment or in the case of a non-executive *director* his appointment to the board;

- (b) the restricted person does not carry out the purchase of the *securities* of the *company* under the scheme during a prohibited period, unless the restricted person entered into the scheme at a time when the *company* was not in a prohibited period and that person is irrevocably bound under the terms of the scheme to carry out a purchase of *securities* of the *company* (which may include the first purchase under the scheme) at a fixed point in time which falls in a prohibited period;
- (c) the restricted person does not cancel or vary the terms of his participation, or carry out sales of *securities* of the *company* within the scheme during a prohibited period; and
- (d) before entering into the scheme, cancelling the scheme or varying the terms of his participation or carrying out sales of the *securities* of the *company* within the scheme, the restricted person obtains clearance in accordance with paragraph 4.

Acting as a trustee

- 18 Where a restricted person is acting as a trustee, dealing in the *securities* of the *company* by that trust is permitted during a prohibited period where:
- (a) the restricted person is not a beneficiary of the trust; and
 - (b) the decision to deal is taken by the other trustees or by investment managers on behalf of the trustees independently of the restricted person.
- 19 The other trustees or investment managers acting on behalf of the trustees can be assumed to have acted independently where the decision to deal:
- (a) was taken without consultation with, or other involvement of, the restricted person; or
 - (b) was delegated to a committee of which the restricted person is not a member.

Dealing by connected persons and investment managers

- 20 A *person discharging managerial responsibilities* must take reasonable steps to prevent any dealings by or on behalf of any *connected person* of his in any *securities* of the *company* on considerations of a short term nature.
- 21 A *person discharging managerial responsibilities* must seek to prohibit any dealings in the *securities* of the *company* during a close period:
- (a) by or on behalf of any *connected person* of his; or
 - (b) by an investment manager on his behalf or on behalf of any *person* connected with him where either he or any *person* connected has funds

under management with that investment fund manager, whether or not discretionary (save as provided by paragraphs 17 and 18).

22 A *person discharging managerial responsibilities* must advise all of his *connected persons* and investment managers acting on his behalf:

- (a) of the name of the *listed company* within which he is a *person discharging managerial responsibilities*;
- (b) of the close periods during which they cannot deal in the *securities* of the *company*; and
- (c) that they must advise the *listed company* immediately after they have dealt in *securities* of the *company*.