ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 62

Better disclosure for investors

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These guidance principles suggest practical steps that a listed company can take to ensure that it meets both the letter and the spirit of the continuous disclosure requirements in the Corporations Law and the stock exchange listing rules. The principles are intended to assist company directors and executives to manage their disclosure obligations and minimise the risk of breaching the law. The principles also aim to ensure that the widest audience of investors have access to company information released under the continuous disclosure rules. The objective of these principles is to outline what ASIC considers to be good disclosure practice, not to impose regulatory requirements.

ASIC encourages companies to adopt the measures suggested below, but they should be implemented flexibly and sensibly to fit the situation of individual companies. Each listed company needs to exercise its own judgement and develop a disclosure regime that meets legal requirements and its own needs and circumstances.

Preventing selective disclosure

Establishing policies and procedures for better disclosure

1. Establish written policies and procedures on information disclosure. Focus on continuous disclosure and improving access to information for all investors.

Using current technology

2. Use current technology to give investors better access to your information. In particular, post price sensitive information on your company’s web site as soon as it is disclosed to the market.

Developing disclosure procedures

Overseeing and coordinating disclosure

3. Nominate a senior officer to have responsibility for:
   - making sure that your company complies with continuous disclosure requirements;
   - overseeing and coordinating disclosure of information to the stock exchange, analysts, brokers, shareholders, the media and the public; and
   - educating directors and staff on the company's disclosure policies and procedures and raising awareness of the principles underlying continuous disclosure.

   In smaller companies, this person is likely to be the company secretary.

Authorising company spokespersons

4. Keep to a minimum the number of directors and staff authorised to speak on your company's behalf. Make sure that these persons know they can clarify information that the company has released publicly through the stock exchange, but they should avoid commenting on other price sensitive matters. The senior officer responsible for disclosure should outline the company's disclosure history to these persons before they brief anyone outside the company. This will safeguard against inadvertent disclosure of price sensitive information.

Monitoring disclosures

5. The senior officer responsible for disclosure should be aware of information disclosures in advance, including information to be presented at private briefings. This will minimise the risk of breaching the continuous disclosure requirements.

Releasing company information

6. Price sensitive information must be publicly released through the stock exchange before disclosing it to analysts or others outside the company. Further dissemination to investors is desirable following release through the stock exchange. Posting information on your company's web site immediately after the stock exchange confirms an announcement has been made is one method of making it accessible to the widest audience. Investor information should be posted in a separate area of your web site from promotional material about the company or its products.

Handling rumours, leaks and inadvertent disclosures

7. Develop procedures for responding to market rumours, leaks and inadvertent disclosures. Even if leaked or inadvertently disclosed information is not considered price sensitive, give investors equal access by posting it on the company web site.

Briefing analysts

Reviewing discussions

8. Have a procedure for reviewing briefings and discussions with analysts afterwards to check whether any price sensitive information has been inadvertently disclosed. If so, give investors access to it by announcing it immediately through the stock exchange, then posting it on the company web site. Slides and presentations used in briefings should be given to the stock exchange for immediate release to the market and posted on the company web site.

Handling unanticipated questions

9. Be particularly careful when dealing with analysts' questions that raise issues outside the intended scope of discussion. Some useful ground rules are:
   - only discuss information that has been publicly released through the stock exchange;
   - if a question can only be answered by disclosing price sensitive information, decline to answer or take it on notice. Then announce the information through the stock exchange before responding.

Responding on financial projections and reports

10. Confine your comments on market analysts' financial projections to errors in factual information and underlying assumptions. Seek to avoid any response which may suggest that the company's, or the market's, current projections are incorrect. The way to manage earnings expectations is by using the continuous disclosure regime to establish a range within which earnings are likely to fall. Publicly announce any change in expectations before commenting to anyone outside the company.

**In this Guidance, references to listed companies are to be read as including other listed entities.*